DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

14 April 1994

Thursday, 14 April 1994

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MADAM SPEAKER (Ms McRae) took the chair at 10.30 am and read the prayer.

PRESENTATION OF LEGISLATION

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, I seek leave for the following Bills to be presented: Lotteries (Amendment) Bill 1994, Construction Industry Training Fund Bill 1994, Long Service Leave (Building and Construction Industry) (Amendment) Bill 1994, Buildings (Design and Siting) (Amendment) Bill 1994, Children's Services (Amendment) Bill 1994 and Community Advocate (Amendment) Bill 1994; and for the presentation speeches to be incorporated in *Hansard*.

Leave granted.

Speeches incorporated at Appendix 2.

LOTTERIES (AMENDMENT) BILL 1994

MS FOLLETT (Chief Minister and Treasurer) (10.31): Madam Speaker, I present the Lotteries (Amendment) Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

I present the explanatory memorandum to the Bill.

Debate (on motion by **Mr Kaine**) adjourned.

CONSTRUCTION INDUSTRY TRAINING FUND BILL 1994

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (10.33): Madam Speaker, I present the Construction Industry Training Fund Bill 1994.

Title read by Clerk.

MR WOOD: Madam Speaker, I move:

That this Bill be agreed to in principle.

I present the explanatory memorandum to the Bill.

Debate (on motion by **Mr De Domenico**) adjourned.

LONG SERVICE LEAVE (BUILDING AND CONSTRUCTION INDUSTRY) (AMENDMENT) BILL 1994

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (10.34): Madam Speaker, I present the Long Service Leave (Building and Construction Industry) (Amendment) Bill 1994.

Title read by Clerk.

MR WOOD: Madam Speaker, I move:

That this Bill be agreed to in principle.

I present the explanatory memorandum to the Bill.

Debate (on motion by **Mr De Domenico**) adjourned.

BUILDINGS (DESIGN AND SITING) (AMENDMENT) BILL 1994

MR WOOD (Minister for Education and Training, Minister for the Arts, Minister for the Environment, Land and Planning) (10.35): Madam Speaker, I present the Buildings (Design and Siting) (Amendment) Bill 1994.

Title read by Clerk.

MR WOOD: Madam Speaker, I move:

That this Bill be agreed to in principle.

I present the explanatory memorandum to the Bill.

Debate (on motion by **Mr Cornwell**) adjourned.

CHILDREN'S SERVICES (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.36): Madam Speaker, I present the Children's Services (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I present the explanatory memorandum to the Bill.

Debate (on motion by **Mr Humphries**) adjourned.

COMMUNITY ADVOCATE (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.37): Madam Speaker, I present the Community Advocate (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: Madam Speaker, I move:

That this Bill be agreed to in principle.

I present the explanatory memorandum to the Bill.

Debate (on motion by **Mr Humphries**) adjourned.

EUTHANASIA - SELECT COMMITTEE
Report on Voluntary and Natural Death Bill 1993

MADAM SPEAKER: Before I call on Mr Moore for the report of the Select Committee on Euthanasia, I wish to make a statement regarding that report.

Members may recall that the resolution of appointment of the committee stipulated that the report be presented to the Assembly by 17 March 1994. On Thursday, 24 February, the Assembly resolved that, should it not be sitting when the committee had completed its inquiry, the committee may send its report to the Speaker, who was authorised to give directions for its printing and circulation. This is a procedure that has been used on other occasions in the Assembly. The report of the Select Committee on Euthanasia was duly submitted to me by the committee chairman on 17 March and authorisation was subsequently given for its printing and circulation in accordance with the Assembly's resolution of 24 February.

The particular matter I wish to bring to the attention of the Assembly relates to the fact that concerns have been expressed by other members of the committee in relation to the contents of the preface of the report. I was aware of these concerns prior to authorising the printing and distribution of the report and I can assure members that authorisation was given only after careful consideration of the relevant standing orders and practices here and elsewhere. As Speaker, I do not propose to comment on the content of the preface, except to say that it is clear that the committee was not in agreement with the views expressed therein.

As far as can be ascertained, prefaces to date have not contained controversial material that has not met with the agreement of committee members. Assembly standing orders make particular provision for consideration of reports by committees, their signing and presentation, and the presentation of dissenting reports. They are silent on the subject of prefaces to reports, though it is common practice in the Assembly and in the House of Representatives and the Senate for a committee presiding member to add a preface to a report. It has also been a practice in the Assembly since 1989 for members to add additional comments to reports, although there is no provision made in the standing orders for additional comments.

The concerns that have been raised are serious and the issues raised do affect the basis upon which committee reports are made. In the light of what has occurred, I have concluded that it is necessary that the matter be brought to the attention of the Assembly and that consideration be given to either refining our practices in these matters or amending the standing orders to take account of the possibility of similar occurrences in the future.

MR MOORE (10.39): Pursuant to order, I present the report of the Select Committee on Euthanasia on the Voluntary and Natural Death Bill, together with the minutes of proceedings. The report was provided to the Speaker for circulation on Thursday, 17 March 1994, pursuant to resolution of the Assembly of 24 February 1994. I move:

That the report be noted.

The question of passive and active euthanasia is a vexed one in our society. The indications of the general view of society through prominent polling by Morgan gallup poll, for example, are that the vast majority of our society, certainly over 80 per cent, believe that a person who is at a terminal phase of a terminal illness ought to have the right to have assistance to end their life. It was with that knowledge that I originally tabled the Voluntary and Natural Death Bill.

When the committee was established to look into the Voluntary and Natural Death Bill and I was given the honour of chairing that committee by this Assembly, there were those who said that I would provide a biased chair. I believe that I have not done that. I believe that we have given a great deal of opportunity to people who oppose the Bill to have more than a fair say. From very early in the process I indicated that I was prepared to modify that Bill substantially. When the public hearings occurred, the members of the committee ensured that those who most strongly opposed the Bill outright had the

greatest representation. In fact, of the 44 people who appeared before us, 12 were formally associated with the Catholic Church, which made its position very clear in straight opposition to the Bill. Indeed, there was a range of other people opposed to the concept who also appeared before us.

For various reasons, the committee determined that at this time it was inappropriate for the Assembly to proceed with the active clauses of this Bill. They were the controversial clauses, but I must say that they did account for only some 10 to 20 per cent of what I had hoped to achieve in tabling the Voluntary and Natural Death Bill. There were other particularly important issues that I believed needed to be resolved. Those issues included the ability of people to make an advance directive, sometimes referred to as a living will, and the ability of people to ensure that if they wished to have life support machines removed they would be able to do so. These are the areas that are normally referred to as passive euthanasia, and they have been dealt with in a positive way by the committee.

The committee has prepared a Medical Treatment Bill, which has been to Parliamentary Counsel and has been through a brief consultation process. We sent the original draft of the Medical Treatment Bill to those who were most strongly opposed to the Voluntary and Natural Death Bill, namely, the Catholic Church, particularly the bishop, the Anglican bishop, the AMA, and a few other groups. They in turn responded seeking some modifications. Those modifications were implemented, and we now have the Medical Treatment Bill as an attachment to the report. It is my intention to table the Medical Treatment Bill in this house, so there will be even further opportunities for discussion on that Bill. The Government will have an appropriate opportunity to respond and then, I presume, further modifications may well be made, and appropriately so.

I think the 80 per cent of what I set out to achieve that is embodied in the Medical Treatment Bill will be a significant advance for our society. It will allow people to make one of the most important decisions of their lives, that is, a decision about their own life, in an advanced way. It will also allow doctors to make sensible and rational decisions about assisting people through some of their most difficult times. It will not allow active intervention to induce death.

The most important thing that has come out of the research of the select committee is in relation to palliative care. On page 4 of our report we talk about palliative care and hospice facilities, and the most important recommendation is that a suitably qualified pain management specialist be appointed to the public hospital service in the Territory. This is in no way a criticism of the former Minister for Health or the Government. We understand that they had taken some action in order to seek that appointment and there were a series of reasons as to why that appointment was not able to be made.

It is important that people have assistance with their pain management. A series of furphies have been circulated as part and parcel of the debate on euthanasia. One of those furphies is that it is possible to provide pain management in all cases, that our palliative care and our pain management are so good at the moment that nobody needs to die in pain. In evidence before the committee, the specialists in this area indicated a range of from 5 per cent to 20 per cent of people who would still die in pain in spite of the advances made in pain management. We all hope that in the not too distant future more advances in pain management are made and that nobody will need to die in pain.

As you would be aware, Madam Speaker, I still advocate active euthanasia. The Labor Party's policy still advocates active euthanasia. It was clear during the committee's hearings that the Labor Party had determined that it would not proceed with its policy at this stage. The Labor Party believed - I think this is a fair interpretation, but Mr Lamont will have the opportunity to comment on it further - that further discussion would be necessary before this issue was dealt with by legislation. My own approach to that was to say that the best way to ensure a fair discussion on that issue was for the issue to go to referendum. One of the ironies of that is that the Liberal Party, in a quite public process, indicated that it would not support this issue going to referendum. The irony is that the Liberal Party favours a referendum system.

I accept that, Madam Speaker, and I also accept the very public process that went with this committee's report. It was a quite different process from the one we usually use in committees, but because it was an area of such concern I believe that it was appropriate. I also believe that it was appropriate that other members of the committee have the opportunity to discuss the issues with their party colleagues and that responses be made in a very public way. That is why I had no difficulty with Labor making a general announcement while the committee was still sitting and, similarly, the Liberals making a public announcement. Quite clearly, the issue of active euthanasia is an issue that would need widespread community support for that particular legislation.

In writing the preface to this report, Madam Speaker, to which you drew attention, I felt that it was appropriate to explain why it was that the view of approximately 80 per cent of the people of Australia - probably a higher percentage in the ACT, although there is no evidence for that - would be delayed by the recommendations of this committee. I believe that the reasons are political. I believe that the reasons why the Victorian committee and the South Australian committee came up with a similar report to ours were simply political. In no way do I see that as a reflection on the other members of the committee, who I believe acted appropriately at all times, discussed the issues at all times, and dealt with them in an appropriate way. It is the party decision in both cases that I have criticised, not the individuals. That is why I thought it would be a most appropriate public process.

Madam Speaker, there is a series of precedents of prefaces being written into reports of the Assembly, prefaces written by the chair without reference to other members. In this case, as part of the openness of that committee - and it reflects how well members of the committee were working together - I circulated a copy of the preface to the other members before presenting the report to you. Indeed, Madam Speaker, that did cause some consternation, particularly for Mr Lamont. When a member writes a dissenting report to a committee report, nobody has the opportunity to write a dissenting report to the dissenting report. When a member writes additional comments, no other member has the opportunity to write additional comments to the additional comments. But, recognising the unease the other members of the committee felt with the preface, I added the words that appear at the bottom of the preface:

This preface has been prepared by the Chair and does not necessarily reflect the views of the Committee.

I thought it rather important to add those words because it made it very clear, in italics and in very separate lettering, that this was my own personal view. Mind you, Madam Speaker, I must say that anybody reading it would realise that that was the case, and I think that is reasonable.

No doubt the issue of the preface will be debated in this Assembly. I hope that when we debate that issue - and I have no difficulty with that - we do not lose sight of the positive outcomes from this report. The part we are all agreed on - the report is a unanimous report - is that we do need a medical treatment Bill, and that Bill, I believe, is acceptable right across our community. No doubt that will be subject to debate in this house in the not too distant future.

Finally, I would like to take the opportunity to draw to the Assembly's attention the fact that this is the last report in which the secretary, Ron Owens, will play a role as he will be leaving the Assembly tomorrow. I have worked on a series of reports with Ron Owens and I must say that I have found him to be incredibly professional, well informed and capable. It is with some sorrow that I see him leaving the Assembly; at the same time, I understand his reasons for doing so. I think his contribution to this report and to a series of other controversial reports, including reports on prostitution and drugs, and his work on the Legal Affairs Committee and other committees have been significant, and I would like to ensure that that is on the record. With those few words, I commend this report to the Assembly.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.55): I seek leave to present additional comments to the report of the Select Committee on Euthanasia and to move a motion in relation to the additional comments.

Leave granted.

MR LAMONT: I present additional comments to the report of the Select Committee on Euthanasia on the Voluntary and Natural Death Bill 1993 and I move:

That the additional comments be added to the Report of the Select Committee on Euthanasia and that the report and the additional comments be authorised for publication.

I understand that the Clerk does have copies of the additional comments for each member of the Assembly. I appreciate the comments by Mr Moore in relation to my own contribution to the consideration of issues by Assembly committees. I genuinely appreciate that sentiment. Although I have worked on only one committee with Mr Moore - - -

Mr Moore: And a difficult committee it was, of course.

MR LAMONT: It was a quite difficult committee, but I found it to be an experience, and one which I am the better for. I have, however, found it necessary to take this course of action because of what I believed was a difference in style in the way Assembly committees have worked. Up until yesterday I had been a member of five select and

standing committees of this Assembly. On each of those, despite the at times heated debate, it was the genuine expression by each of the members of those committees that we try to arrive at a consensus in relation to the issues that were being addressed.

This is the first time that a document has been produced with additional comments or a preface where those additional comments and/or preface have not been given to the members of the committee and those additional comments influenced by members of that committee. Mr Moore shakes his head. I acknowledge that Mr Moore has gratuitously, at the bottom of these comments, made the one-line statement that these views do not necessarily reflect the views of the other members of the committee. That is fine; but I now propose, following the tabling of these additional comments, to read them, because I believe that it is appropriate that they be recorded in *Hansard*. I have taken the opportunity to quote Herodotus from the fifth century BC, who said:

Haste in every business brings failure.

I know that Mr Moore will understand the implications of such well-tested truisms as this one; I understand that he resorts to the use of the same style of truism to justify his own position from time to time. The additional comments state:

It is extremely disappointing that for someone who is forever accusing the major political parties of rorting the political process, Mr Moore has shown himself in finalising this report to be someone quite happy to hijack the committee process for his political purposes.

When I received the final of this report for my endorsement, I was astonished to see what Mr Moore had written in his Preface to the Report. I will deal with the substance of what Mr Moore has to say in that Preface below but first what also needs to be brought to the attention of the readers of this report is the extent to which Mr Moore has been willing to abuse his position as Chairman of the Euthanasia Committee.

The Report which the Committee has prepared is the Report of the Select Committee on Euthanasia - it is not Mr Moore's report. It is, therefore, not only gratuitous but quite reprehensible that he should impose upon this report a Preface (and an epigraph) which contains his views and not those of the Committee as a whole. If Mr Moore wishes to place on record his dissent from the majority of the Committee he is perfectly entitled to submit a dissenting report which would be appended to the report. This is the right he shares with every other member of the Committee but he has no other special rights as Chairman.

As Mr Moore believes he has a right to author a Preface with which I disagree, I see no alternative but to assume that right as well. However, as I have been denied the option of having my comments included, like Mr Moore's, at the beginning of the Report so add them now as "Additional Comments" for insertion.

Of all the distortions in Mr Moore's preface, some cannot be allowed to pass without comment. First, Mr Moore's contention that the Labor Party has forsaken its policy on euthanasia and that it has done so because of "perceived electoral concerns rather than a commitment to the greater good" is typically misleading in terms of both the statements which I have made about what I believe should occur in the continuing euthanasia debate and simply wrong as far as ALP policy is concerned.

That policy does not commit the Labor Party to act in advance of public sentiment on the issue but to work towards a position where the community does accept active euthanasia. My feeling from the public hearings was that a great deal of genuine concern and fear exists in the community about active euthanasia and that, in accord with ALP policy, much work needs to be done before we could responsibly introduce such a policy.

Of course, Mr Moore just dismisses these concerns and fears as the irrational dogma of a small minority. With such Olympian objectivity, it is little wonder that Mr Moore seems unconcerned that a referendum on this issue - even if it did answer the question in the affirmative - could not be undertaken at this time without doing great harm to the very people who so readily expressed their views to the Committee. I had always supposed that a part of governing responsibly included protecting the interests of minorities but apparently Mr Moore is not strong on this view.

There is every reason to proceed with due caution in this debate - the consequences in the event of failure are simply too great both in terms of the effects on the community as a social entity and the grave dangers to actual life which could result from application of an ill considered law.

That concludes the additional comments I have tabled, Madam Speaker.

Notwithstanding my great concern about the preface and my recourse to this process in relation to the additional comments, I do thank both other members of the committee for the debate because I believe that it is an essential part of what this community must engage in to arrive at a proper outcome on this issue. Mr Moore should be congratulated for raising the issue, for promoting the issue, and for drawing it to high public attention. So, to Mr Moore I extend my appreciation for that. I would not like either Mr Moore's preface or my additional comments to overshadow the work of the committee or the contribution of the people who are set out in the body of the report.

I believe that it takes at times great courage for individuals who may regard themselves as being in a minority to take a very public stand about particular issues, but that is the nature of democracy. It is something we should preserve and protect, and I believe that in this debate it is something that has to be given equal weight, at least in terms of the process of dealing with this matter as the views of the majority. That is one of the real concerns I had as a member of this committee in trying to balance those two issues.

I thank Mrs Carnell for her contribution to allowing me to arrive at this position. There were free and frank exchanges around the committee table and in the halls of the old Assembly building, and I thank her for her contribution to allowing me to make that assessment. I have no doubt that Mr Moore will not either appreciate or accept the sentiment expressed in my additional comments, and that is Mr Moore's right. I would jealously guard Mr Moore's right to have that view; but I believe that I, as a member of the committee, also have a right, and I have exercised that by tabling these additional comments this day.

I have much pleasure in commending the substance of the recommendations in this report and look forward to Mr Moore tabling in this place the Bill referred to in the report. I understand from some preliminary discussions about this question this morning that, as Mr Moore has indicated, there may need to be some initial work done to tidy up some of the implications and the technical way in which some issues are expressed. However, I believe that it is an appropriate way for us to proceed, and I look forward to participating in the debate in this house when the Bill formally comes before us.

MRS CARNELL (Leader of the Opposition) (11.05): Madam Speaker, I support Mr Lamont's right to put forward additional comments to this report. As you rightly said in your introduction to this debate, the issue of the preface has caused the committee probably more real anguish than putting the report together did. The report took a lot of time and a lot of effort, and I will speak on that issue separately. To discuss the preface and Mr Lamont's additional comments, the only concern I have is that Mr Lamont did not tell me until just now that he was going to do this today. If I had known, I would have also put forward additional comments, so I will make those comments now on the record.

As Mr Moore knows, when I saw his preface I was disappointed. I was not disappointed because of Mr Moore expressing his opinion on the issue at hand in a preface, which I believe as chairman of the committee he has a right to do. What I was concerned about was Mr Moore's reasonably gratuitous and certainly incorrect analysis of Liberal Party policy. I will not attempt to make a comment on his analysis of Labor Party policy; Mr Lamont has done that. In his preface Mr Moore says:

Although the Liberal Party have been advocates of referenda to assess community opinion on controversial issues, they have announced that they will not support a referendum on active euthanasia.

He suggests further that Liberal Party members were lobbied against their own policy of taking such issues to referendum. He goes on:

On the issue of active euthanasia both major parties have forsaken their own policy positions.

I take exception to that, and Mr Moore knows that I take exception to it. The Liberal Party has never put forward a policy to assess community opinion on controversial issues via referenda. The Liberal Party have been quite strong, and will continue to be, on our policy of citizen-initiated referenda - not necessarily government-initiated referenda on issues the government, for whatever reason, may find too hard to make decisions on. I and my colleagues believe very strongly that, if an adequate

percentage of the voting public want to put forward an issue for referendum, they should be able to. If a majority of the community vote for that particular initiative, it should be taken on board by the Assembly as a matter of process. That is our policy on it. We certainly do not have a policy that suggests that referenda should be used on issues that governments just do not want to make a decision on.

The concern I have is that the Liberal Party, and Mr Lamont suggests the Labor Party as well, have been misrepresented in the preface, and on a policy issue that is not directly related to the issue of active or passive euthanasia. It was for that reason that, after reading the preface, I asked Mr Moore to add to the preface the words he has put in italics at the bottom. In the words he used - "This Preface has been prepared by the Chair and does not necessarily reflect the views of the Committee" - I thought the word "necessarily" was unnecessary. Fairly obviously, it does not reflect the views of either of the other members of the committee. I had some discussions with the Speaker on the issue of the preface. I think in the end the Speaker made a very sensible decision. It was going to be totally ridiculous to have a situation where we had 400 prefaces to this particular report - a report that I believe is very good - and that is what would have happened. Once Mr Lamont put forward a preface, I was going to have to put forward a preface. Mr Moore had made it clear that he would put forward another preface.

Mr Connolly: That is only three. There are 397 more to come.

MRS CARNELL: Mr Lamont was going to put forward another preface and then I was going to have to put forward another preface. The situation was obviously going to be ridiculous. It is unfortunate that what is a very good report, on which I will speak in a moment, was somewhat upset. I think the preface does take away from the report as a whole. Again, I totally support Mr Lamont's right to put forward any additional comments he wants to.

MR STEVENSON (11.10): I find Mr Lamont's comments remarkable.

Mr Connolly: You are the expert on Assembly committee procedures!

MR STEVENSON: That is not what I find remarkable. He refers to Mr Moore's contention that the Labor Party has forsaken its policy on euthanasia. He goes on to say, in referring to the policy on euthanasia:

That policy does not commit the Labor Party to act in advance of public sentiment on the issue but to work towards a position where the community does accept active euthanasia.

What this statement says is that, although the Labor Party has a policy, it does not mean that they have a policy. It actually means that, provided there is public agreement on the policy, they take a step and then have a policy. I find it a remarkable statement that - - -

Mr Lamont: No; that is what the euthanasia policy says, Dennis. The euthanasia policy says, "Do not act in advance of public sentiment". Read the letter.

MR STEVENSON: Mr Lamont comments that the euthanasia policy says that we should not act in advance of public sentiment on euthanasia. If that is the case, I absolutely agree. You did not say that in your statement. Once again, I thought it was an interesting point. I was going to make the point that, if the policy was not a policy as such but depended on public sentiment, that would cover it.

The next point is Mr Moore's preface to the report. Was the comment made there because Mr Moore was not able to make a comment anywhere else in the report, as he was the chairman? I have been informed that, although it would be highly unusual for the chairman to make a dissenting comment or another additional remark or whatever you wish to call it, it could have been done. So from the principle point of view, I thought it was important to mention that Mr Moore could have made his comments elsewhere in the report and would not have been precluded from doing so.

MR MOORE (11.13): Madam Speaker, it is interesting, referring to these additional comments and the motion Mr Lamont has put, that he is not seeking to put additional comments to the report. He is seeking to make comments additional to my own additional comments. Mr Lamont suggested that the notion of the chair writing the preface without the approval of the committee was in some way new. That is simply not the case. I have in front of me six or eight discussion papers and reports of Assembly committees.

Mr Kaine: They are discussion papers, not reports.

MR MOORE: Both. There are reports and a couple of discussion papers that have been published that have prefaces. In about half of those the prefaces were written without reference to the committee until they were published. In this particular instance, there was no opportunity for the members of the committee to dissent from the preface.

Mr Lamont: Yes, there was, and you refused to allow it.

MR MOORE: Mr Lamont in his interjection misunderstands what I am saying: In the cases other than the one we are dealing with now. In the case we are dealing with now, there was no opportunity for the members to dissent from the preface. What we are presented with now is an example of a committee process whereby a member writes a dissenting report, that dissenting report is circulated amongst members, and other members can write a dissenting report on that dissenting report. I heard Mr Connolly before chuckling about this possibility and saying how far it could go. I think he said 97 or 98 times. How many additional comments do we have to the additional comments?

My perception of the preface in each of the reports was that the preface was a place where the chair of the committee could offer opinion. If you look back, for example, at the report on marijuana and other illegal drugs, the chair has offered an opinion. In that case, where I wrote the preface, some of the things I wrote would perhaps have been uncomfortable for other members of the committee; but it was signed by me and done separately. I agree that those comments were not of such a political nature - a matter that has been raised by Mrs Carnell and Mr Lamont - but I believe that I had the right to do that in that preface.

Madam Speaker, you have raised the issue that this needs clarification, and I accept that it needs clarification. I also think that having the additional comments of Mr Lamont added is an inappropriate way to clarify the issue. I do not have a huge problem with having them there at this stage. I have a problem with the principle of having additional comments made to additional comments, because we do not know where it is going to end. If this Assembly wishes to say that a preface by a chair is part of a report and that is how we need to set out our process, and that a chair who wishes to make a dissenting comment or additional comments does so like any other member, that makes quite good sense. I can see that that makes quite good sense and I would accept that. But the reality is that, if I had made those same comments as additional comments, Mr Lamont would still wish to make additional comments to the additional comments.

Mr Kaine: As is his right.

MR MOORE: It is not his right. In no place in a report of this Assembly that I am aware of, unless a member can interject and give me an example, have we had additional comments to an additional set of comments.

Mr Kaine: We have not had a preface like that before, either, and you do not take exception to that.

MR MOORE: And in that case I say that this is what I consider an inappropriate process. Mr Kaine interjects that we have never had a preface like that, and waves it before me; but I point out that this was in many ways a very unusual committee that operated in a very public and unusual way. During the committee's deliberations the Labor Party made a major announcement in terms of their policy, and the Liberal Party made a major announcement with reference specifically to what was going on in the committee. That was particularly unusual, and it was those two announcements that I was responding to in that preface.

Madam Speaker, like anybody else in this chamber, I can read the numbers, and I understand that Mr Lamont's additional comments will be added to this report. In some ways it is unfortunate, that being the will of the Assembly, that over 200 copies of the report have already been distributed. That being the case, if it is the will of the Assembly - and I recognise the will of the Assembly - I am happy to talk to Mr Lamont about whether he wants his additional comments circulated to those same people. It is possible, if this motion is passed and he wants that done. Alternatively, if he is content for the additional comments to be included with the report from now on, we can work through that situation.

I still think we should have an opportunity for a preface not to be made the subject of additional comments; nor should we be able to have additional comments to additional comments. Perhaps, therefore, the most appropriate way to deal with this situation, recognising the will of the Assembly if this motion is carried, is to seek to have a system whereby the preface is considered to be part of the report. I think that would avoid this situation happening again, and it ought not to happen again, and would allow additional comments to be made to the preface.

We should also therefore say that, because of the small size of our committees, where a chair wishes to make additional comments they should do so in the additional comments or dissenting report section of committee reports. If you wish to do it in that way, that is fine. I do not think that has been a precedent; in fact, the Speaker made it very clear that the precedent has been set in terms of the chair writing their own preface. I believe that the motion put by Mr Lamont to include those additional comments to what I perceive as additional comments is not appropriate. There are other ways to achieve the same goal. But, having heard Mrs Carnell's perspective on it and the fact that she would be willing to support that motion, and I presume that her Liberal colleagues have the same view, I will do what I can to assist in recognising the will of the Assembly.

MS SZUTY (11.21): Madam Speaker, I intend to speak very briefly to this issue. The role of the preface to a committee report, as Mr Moore has outlined this morning, is certainly an interesting one. It is useful to go back over the history of committee reports to see the various prefaces that have been included by the chair of the committee. I must say that it is not something I have done as chair of the Estimates Committee, but I have been interested to listen to the debate this morning.

Had I been the chair of the Select Committee on Euthanasia, I do not know that I would have done what Mr Moore has done in terms of the preface that was included in the committee's report. However, I do take his point that the additional comments Mr Lamont wishes to add to the report are additional comments to additional comments. I agree with Mr Moore that that would be a very unfortunate precedent for this Assembly to set, if the motion Mr Lamont proposes is carried today. I agree with Mr Moore that the issue needs clarification, and I think his solution, for the preface to be considered as part of the report and then for additional comments to be made by other members of the committee, is an appropriate solution and is worthy of further consideration. I will be opposing the motion proposed by Mr Lamont.

MR BERRY (11.23): This debate is somewhat timely for me because soon I will be putting my shoulder to the wheel, so to speak, in the committee process. I have to say that the preface in this report is largely political, and one would expect dissenting remarks - that is, after all, what they are - to include some political statement from time to time. That is the nature of this business. But I think it is a bit shabby for the chair of a committee not to give other members of the committee what could be considered a fair go in addressing some of the issues in the report. I take it that the preface to a report can be seen to be part of the report. That is the way people would read them. Once Mr Moore recognised what the numbers were, I heard some remarks in his speech which seemed to me to be a bit like an act of contrition.

I do not see anything wrong with the in-principle position of a preface by the chair. These committees operate on the basis of consensus in many respects, but from time to time there are differences which will warrant differing comments by different committee members. I say to members I will be bumping into in the course of my committee work that I will be trying to make sure that everybody has a fair go. I would be objecting to this sort of approach; but, at the same time, if I were the chair I would also take the

opportunity to provide a preface. If I were the chair and dissented from some of the matters in a report or wanted to make some additional comments, you can expect that you would know what I was doing and that it would not be sprung on you. That is not the way I think we should operate in the context of the committee process.

The approach Mr Moore has taken on the issue of euthanasia has been pretty much of a stunt from the beginning. We have seen a properly developed policy, the timing of which was to be determined by the Government, or the Labor Party, plucked by Mr Moore and thrust into the headlines. It is no wonder that there was some fear and dismay out there about the issue. The hyperbole that was created about it was unnecessary. I am pleased to say that it will now get very careful debate in the community. Mr Moore, I think, has lost some brownie points in the community because of his behaviour on this score. It is his own judgment to exercise his political stand as he wishes. At the end of the day, I think you can expect that the issue of euthanasia will be treated with care by the Labor Party in accordance with its policies. It is not an issue that ought to have been dragged suddenly into the headlines just to make a point or two, and I think that was the case in respect of Mr Moore's actions.

I repeat, Madam Speaker, that I look forward to being involved in the committees, because there is some important work to do out there. We have to make sure that the credibility of the committee process is preserved, and I think that spiteful statements such as this one do not do much to look after that committee process.

MR MOORE: Madam Speaker, I wonder whether I could make an explanation under standing order 47.

Leave granted.

MR MOORE: Mr Berry talked about my plucking Labor Party policy and sticking it out into the community. I think members should understand that I was elected with a policy on euthanasia as well.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (11.28), in reply: Madam Speaker, there were four issues raised by people who have spoken in the debate: The question of conventions in relation to the preface; additional comments of the chair of the committee; dissenting reports on a dissenting report; and what happens with the distribution of these comments. I will deal with each one of those in turn.

In relation to the convention of this chamber on the preface to reports of committees, as with the convention applying to the preface to reports in the Federal Parliament, it is my understanding that in general those preface comments by chairs of committees would in the first instance go to the process of how the inquiry was conducted. They would raise any salient single point that the chair believed was crucial in deliberation of the report. In general, they are regarded as being an opportunity for the chair to bring into a short form other comments made elsewhere and the recommendations in the report. That is not the case on this occasion.

On the second point that was raised, dissenting reports on dissenting reports, it is my view that, had Mr Moore, as chair of the committee, not liked the committee's majority decision, he was at liberty to provide a dissenting report. It simply would have meant that he had a responsibility as chair of the committee to present the report, but that as a member of the committee he had the same entitlement as all other members to dissent from the majority decision.

That is the point Mr Moore fails to recognise when arguing that it is a dissenting report on a dissenting report. Had Mr Moore placed a dissenting report in almost the terms or exactly the terms of his preface, there would have been no objection from me, there would have been no additional comments from me, there would have been no objection raised to those additional comments being included in the report, printed, published and authorised for distribution. I believe that I have successfully answered on both the convention as far as the preface is concerned and the question of dissenting reports on dissenting reports. I also believe that it is not unknown for a chairman of a committee to deliver a dissenting report. Ms Szuty, thankfully, has indicated to Mr Moore at least two occasions where that has occurred. That places at rest the third issue.

The fourth issue raised by Mr Moore was what we do about the distribution of these additional comments. The authority for the distribution of these comments is taken on by the Assembly Secretariat. The persons to whom they have been forwarded are known to the Assembly Secretariat. The Assembly Secretariat has the additional copies not already distributed. It is a simple process - at a cost, I will admit, of 42c for each stamp - to send them out to those people they need to be posted to.

Ms Follett: It is 45c.

MR LAMONT: The Chief Minister says that it is 45c. I understand that there is a bulk mailing discount available, Chief Minister.

Mr De DOMENICO: If there is not, there should be.

MR LAMONT: And if there is not, there should be, Mr De Domenico interjects. So the cost is not substantial in that regard. In regard to those copies which are already held by the Assembly, I understand that the process is fairly straightforward for these comments to be reduced to the appropriate size and pasted into the back of the report.

I think I have answered the four points that were raised in objection to the motion I have put before you. I do not wish to recanvass the position, but I do believe that I have adequately covered all of the issues raised by Mr Moore and I look forward to his support for this motion as well.

Question resolved in the affirmative.

MADAM SPEAKER: We will return to Mr Moore's report. The question before us is: That the report be noted.

MRS CARNELL (Leader of the Opposition) (11.33): It is unfortunate that we have had our attention taken away from a very good report by what is a fairly political preface. The report process, as Mr Moore said, was very open, and very appropriately so on what is a very difficult issue. It is an issue on which the Liberal Party, as I am sure everybody knows, has a conscience vote. From my perspective, I came to the committee with an absolutely clean sheet. However, I think the following principles guided me, and I suspect other members of the committee, in our deliberations on that Bill.

Like many others, I strongly support the right of any terminally ill person to die with as much dignity and as little suffering as possible. A patient should have the right to allow his or her life to end naturally and without pain. That is something the committee spoke about at length. Equally, if a person is faced with a terminal condition and does not want medical intervention, he or she should be able to refuse it. Again, that is an issue the committee totally supported.

I personally oppose any legislation that might require a doctor or a nurse to deliberately end the life of a patient. Such a requirement would put a medical practitioner, or for that matter anybody else involved in medicine, in a totally impossible situation. One of the most interesting parts of the public hearings was listening to people involved in looking after patients who are terminally ill talk about their relationship with those patients. Many of the nurses particularly, and the medical practitioners as well, made the point that for them to have their relationship with that patient clouded by the view that they could quite deliberately end that patient's life - at that patient's request, of course - would make their position as a carer in the medical sense very difficult. Many of them commented that because they had been trained to save life, because they had been trained to prolong life at maximum quality for as long as possible, the proposed legislation would cause them a lot of problems in terms of ethics.

I think one of the things we all came to grips with - certainly I did - was recognising that society has become increasingly subject to litigation and that some form of legislation is required to support and clarify the principles underpinning accepted medical practice in this matter, consistent with accepted and current community standards of ethics and morality. One of the issues we had to come to grips with was whether there was a need for any legislation at all. Many of the medical practitioners who appeared before the committee made the point that there were some problems in this area right now. Although it is their job, and something they do every day of the week, to give adequate pain relief to make a patient's final weeks, final hours even, of life more comfortable, the issue of whether the pain relief caused death or the condition itself caused death becomes a difficulty in litigation terms in the current legal climate.

The doctors, and nurses as well, commented that clarification in this area was something they would welcome. We know that other States have taken that view as well, and it is something I support in terms of the Bill that has been put forward today. It does clarify the position for the patient and for the doctor and for the medical system generally. That is why this Bill is potentially a very important addition to health care in the ACT.

One of the things the committee also came to grips with, and it did take some time, was balancing the rights of the health system - the medical practitioners and the nurses - against the rights of the patient and the patient's family. That is a very difficult issue when you are talking about euthanasia, whether it be passive or active, and I think the Bill as it has been presented goes a quite long way to doing that by giving a patient the right to adequate pain relief. That could be and probably will be argued in legalistic terms, but what it says is that you as a patient who is dying do have some rights; that you do have the right to pain relief to the level you believe is appropriate. We took advice from many doctors in this area, all of whom said, "Nobody knows how much pain a particular patient has, except the patient". I think that is a very valuable addition to this legislation and I am sure that it will go a long way to balancing those rights.

Mr Moore made a comment about palliative care, and that was raised time and time again in our public hearings. I am sure that we all agree that the Assembly should be concentrating its efforts more closely on improving palliative care in the ACT. We should be ensuring that our doctors and specialists have state-of-the-art training in palliative care and are highly skilled in using the latest pain management techniques available. It was said to us constantly that that simply is not the case at the moment, and I am sure that Mr Connolly will be coming to grips with that in his new portfolio responsibilities. In Canberra at the moment we do not have very much expertise in the area of pain management. It is an area of health that is changing very rapidly. Mr Moore's comment that total pain relief is impossible to some extent is true, but with state-of-the-art training in the area of pain management and palliative care you can go an awfully long way to achieving that - substantially further than we are currently achieving in Canberra. A number of the people involved in oncology and palliative care made the comment to us that a lot of the problems we are currently seeing can be put down to the fact that we simply do not have the expertise in Canberra at the moment. The other issue that was put to us is that we also do not have the facilities in Canberra at the moment.

I think the committee determined in the end that to go down the track of a Bill for active euthanasia before we had addressed the issue of services and expertise to do the absolute best we can under current legislation or under the passive euthanasia approach would be inappropriate. I urge the Assembly to look closely at this Bill but, most importantly, to accept that this Bill on its own does not address the problem. What will address the problem is this Bill plus addressing the issues of palliative care and good pain management

Debate (on motion by **Mr Connolly**) adjourned.

ASSEMBLY BUSINESS - EXTENSION OF TIME

MR BERRY (11.41): Pursuant to standing order 77E, I move:

That the time for the discussion of Assembly business be extended by 30 minutes.

Question resolved in the affirmative.

SOCIAL POLICY - STANDING COMMITTEE
Report on Aged Accommodation and Support Services - Government Response and Ministerial Statement

Debate resumed from 9 December 1993, on motion by **Ms Follett**:

That the Assembly takes note of the papers.

MS FOLLETT (Chief Minister and Treasurer) (11.42), in reply: Madam Speaker, in concluding the debate on the Government's response to the report of the Standing Committee on Social Policy on aged accommodation and support services, I intend to emphasise the strong commitment the Government has demonstrated both to improving aged care in the ACT and to increasing the range of accommodation options available for our older citizens.

Let me say at the outset that the Government has determined that, in addition to the work already undertaken in this important area of social policy, the issue of accommodation and support services for the aged will continue to be a priority in 1994. As noted in the debate in the Assembly on 9 December 1993, a major issue for the ACT relates to the funding of nursing home and hostel accommodation for our aged citizens. I remind members that the provision of funding for nursing home and hostel places rests with the Commonwealth. I am, however, able to inform the Assembly that the Government has made considerable progress in arguing the ACT's case.

The Government has entered into new discussions with the Commonwealth regarding the inadequate number of Commonwealth-subsidised nursing home beds in the ACT. Of critical significance is the issue of place of residence over the last two years. Anecdotal evidence suggests that as many as 25 per cent of ACT nursing home residents come from interstate. Negotiations have focused on providing the hard data necessary to back up this assertion. The Government is expecting an outcome by the end of the 1993-94 financial year. The challenge for the Government, which we have embraced head on, is to establish the legitimacy of the ACT's claim for increased funding.

A second major issue relates to dependency levels, in particular for nursing home residents. I understand that the very high dependency level of ACT nursing home residents compared with those of other States has been independently validated by the Commonwealth. The unusually high dependency levels which exist in the ACT will enable the Government to argue, on the basis of compelling evidence, that funding for nursing home places in the ACT should be reviewed by the Commonwealth. I expect that this case will be put to the Commonwealth in the first half of the next financial year.

The ACT Government has pursued with the Commonwealth a number of additional matters which focus on improved services for older people in the ACT. Progress has also been achieved in relation to respite care for our aged citizens. Additional Commonwealth funding has been provided to enable the hours of the Dickson Day Care Centre and Burrangiri to be extended and for emergency respite services to be provided for people in their own homes, including overnight care.

The Government has also been addressing the problems related to the funding of dementia places in hostels. Again, it must be noted that the funding of dementia places is a Commonwealth responsibility, and the Government's role is that of provider within a nursing home context and advocate for better funding levels for dementia care within the hostel sector. The ACT Government-operated nursing home, Jindalee, has a secure dementia unit. The issue that relates to dementia places in hostels is that, while dementia sufferers may be mobile and may be assessed at the lowest level of dependency, they may actually require greater care and supervision than their dependency level suggests. The Commonwealth, however, provides funding on the basis of level of dependency, not level of care. As a result, hostels are required to bear the additional costs of care.

The Government has again raised this matter in discussions with the Commonwealth and will continue to do so. In fact, I understand that the Commonwealth, because of the representations it has received about this matter, is under pressure to consider strategies for improving the situation. In dealing with the Commonwealth on this issue, the ACT Government will continue to act as an advocate for non-government providers of dementia care in hostels.

The Government is also aware of the need to provide crisis care for aged people in the ACT. In light of the shortage of sites in inner Canberra, consideration is being given to the City Parks depot adjacent to Burrangiri to enable an expansion of that facility in future years. The Government has concluded that it would not be cost-effective to build another centre of the same size as Burrangiri on another site, as infrastructure costs would be prohibitive.

The issue of convalescent beds for the elderly is also under active consideration. The Government is continuing to examine the options for the provision of a convalescent facility, including the use of the Acton site. The second stage of the Acton health facilities study is now nearing completion. It is examining options for convalescent aged care and rehabilitation services on the Acton site. Changes such as increased day surgery procedures and the early discharge policy of the hospitals, coupled with discharge planning practices and increased community care services, mean that few hospital beds are now needed for convalescing patients. Nevertheless, the Government recognises that there are a number of post-operative patients and acute patients, particularly elderly people, who are being discharged home and who require convalescent care and/or rehabilitation. It is in this context that the Government continues to explore options for appropriate accommodation.

I would now like to address the issue of a purpose built facility to cater for younger people with disabilities. Whilst a 40-bed facility may seem an obvious solution to what we all recognise as an unsatisfactory situation, this is not a simple issue. The fact is that the ages of younger people with disabilities who are currently living in nursing homes can range from 20 to 65 years. This group of citizens have needs which are quite diverse. In seeking a solution, the Government is concerned that the individual situation of each person is carefully considered and that differences in their needs for care and support services and differences in their ability to be integrated into the community are all taken

into account. By the end of May 1994 the Government will have considered a range of options for younger people with disabilities now residing in nursing homes. At this time the Government also intends to address the issue of Lower Jindalee coming towards the end of its viable life as a nursing home.

I now move to address accommodation choices for older Canberrans. The Government has ensured that the new Territory Plan allows for a wide variety of housing types, including dual occupancy. Because the plan allows greater diversity in housing, ageing people have greater choice in affordable housing. They have access to alternative types of housing that enable them to stay in their own locality and they have accommodation choices that enable them to maintain their independence.

As Mr Cornwell noted in the Assembly on 9 December, in 1992 the Minister for Urban Services formed a task force to develop a set of standards that would allow greater flexibility and innovation in residential development guidelines. I am pleased to say that considerable progress has been made. The task force has reviewed residential development guidelines in the ACT, and in 1993 version one of the ACT code for residential development was released for comment. As a result of community and industry input the code was reviewed, and version two will be available early this year. As the code is intended to represent best practice, it will continue to be reviewed from time to time.

The Housing Trust's development of housing for older people, through the construction of its aged persons units, has been a successful housing initiative. In relation to the progress of joint venturing, the Housing Trust has been active in pursuing this approach to aged accommodation. In 1988 the trust developed a joint venture project with the Abbeyfield Society to build a house in Ainslie for 10 elderly residents, and all members will be aware of that development. In 1992 the trust, in a joint venture with Goodwin Homes, built 20 aged persons units on land in Wakefield Avenue, Ainslie, transferred to it by Goodwin Homes. The units, owned by the trust, are managed by Goodwin Homes.

The trust and the Brindabella Gardens Aged Care Community Board are investigating ways in which to jointly produce housing for older people that addresses linkages between housing and support services. It is likely that the Housing Trust would hold around 25 per cent of the 24 units proposed for a site in Pearce and possibly six of the potential 18 units proposed for a site in Kambah. Additionally, the trust is negotiating with the Uniting Church to build eight units on church land in Lyneham for the 1994-95 capital works program. The trust is also discussing with another church group a joint venture development of land to provide housing for older couples where one of the partners is significantly less independent than the other, such as in cases of dementia.

The Government has also focused its resources on meeting the needs of those on low incomes and with limited assets. The Housing Trust has changed the balance of its housing provision to direct resources towards the needs of those who require smaller and more appropriate forms of housing. This initiative also has benefits for older people. Current trust clients can be accommodated in a range of dwellings, including purpose built aged persons units. Tenants can also have modifications made to their housing to

improve physical access and mobility. During 1992-93, the Government provided $334,000, and $350,000 in 1993-94, for alterations to houses for tenants with acquired disabilities, including modifications such as grab rails, ramps and hobless showers. The program benefits some 300 tenants per year, including older citizens. In addition, trust transfer policies allow older tenants to move to smaller and more appropriate housing to match their current and future needs.

The Government recognises that the needs of those who have independent means or assets but little option for appropriate and affordable housing from private sector sources should also be met. While the Government is the main provider of appropriate aged accommodation, it is also investigating programs to encourage the private sector to supply affordable and appropriate accommodation for those with independent incomes or who can sustain independent lifestyles.

A number of objectives to foster provision of independent accommodation options have been agreed as priorities with the Commonwealth in the 1993-1996 ACT housing assistance plan. They include financing options for shared home ownership; facilitating the move from large, inappropriate housing to smaller and more manageable housing through the swapping of equity in existing homes for dwellings in new developments; and planning the location of appropriate housing to take advantage of support services and networks in existing communities. The trust will be developing projects to demonstrate to the private sector the viability of supplying appropriate housing at an affordable cost, with market demand generated by the financing options available to older persons.

I move now to the area of support for aged people living in their own homes. The Government's provision of over 50 per cent of the funding of the home and community care program, or HACC, allows many frail aged people to live independently. A Commonwealth-State steering committee has now begun an examination of the focus and boundaries of the HACC program. The relationship between the HACC program and residential services will be considered as part of this review. Concurrently, the House of Representatives Standing Committee on Community Affairs is reviewing the efficiency of services, access to services, gaps in the existing service network, and the quality of services funded under the HACC program. These reviews will look in great detail at the way HACC services are delivered and administered.

The ACT HACC program recently completed a review of HACC grant expenditure for service providers. The purpose of this review was to determine breakdowns of expenditure in relation to administrative and service delivery costs. The results from the review demonstrate that most services in the ACT operate efficiently and effectively, with low administrative overheads. Individual service reviews have now commenced and more detailed consideration will be given to efficiencies coupled with client outcomes.

With regard to the involvement of ethnic groups in aged care issues, I have asked the Multicultural Advisory Council to advise me on issues concerning the ethnic aged. They have now formed a task force on the aged and are currently investigating a range of accommodation issues as they impact on the ethnic aged. I anticipate advice from the council during 1994.

The Government strongly supports the concept of active ageing and has continued to encourage the development of a positive attitude to ageing, not only amongst the aged but amongst the community in general. Currently, the Government is in the process of consulting with older Canberrans with a view to developing a healthy ageing policy. This policy will include strategies which focus on preventative health measures for our senior citizens.

The Government also has a long-term plan to address aged care, including accommodation issues. We have begun by bringing all agencies together to develop strategies to tackle issues and gaps in aged care services and policies. The interdepartmental working group formed is building on the excellent foundation laid by the report of the Social Policy Committee. The working group on aged care will develop within the next year a concise yet comprehensive policy framework on aged care. It is currently examining existing and emerging issues and gaps in relation to aged care. *(Extension of time granted)* In particular, the interdepartmental working group is examining the area of accommodation for the frail aged, including nursing home and hostel provision; the coordination and delivery of home based services to support our older citizens to remain in their own homes or to be accommodated within the community; the issues surrounding those aged people on low incomes who are not eligible for the age pension; and the critical issue of the needs of those community and family members who are carers for the aged.

The issues surrounding aged care are many and complex. The Government is concerned that aged care issues, including aged accommodation and support services, should be dealt with in a comprehensive and systematic way so that effective and lasting solutions are found. The Government's response to the report and the significant progress made by the Government since the response was tabled indicate this Government's serious intention to provide a comprehensive and far-sighted approach to all aspects of aged care in the ACT.

In conclusion, I would like to restate the Government's appreciation of the Social Policy Committee's thorough investigation of a particularly complex set of issues. The actions of my Government and its response to the report confirm our commitment to aged care in the ACT.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Monitoring of Budget Supplementation - Government Response

Debate resumed from 9 December 1993, on motion by **Ms Follett**:

That the Assembly takes note of the paper.

MR KAINE (12.00): My comments will be brief. This report was tabled in June of last year. It made a number of recommendations as to how the Government might improve the processes of budget supplementation and how they might improve their reporting of what is happening during the year with changes to the budget. The Government has indicated that most, but not all, of the recommendations have been accepted. I think the committee will continue to examine this question over time in any case and we will review the matters the Government chose at this time not to adopt. It is a continuing project of the committee to examine the Government's accounting - the way it does its accounting, the form of its accounts, the form of its reports - so in a sense this was an initial report on the matter. It is pleasing that the Government has adopted most, if not all, of the recommendations, and the committee will review these matters on a continuing basis.

Question resolved in the affirmative.

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE
Membership

MR BERRY (12.01): Pursuant to standing order 223, I move:

That Mr Lamont be discharged from attending the Standing Committee on Administration and Procedures and that Mr Berry be appointed to the Committee.

Question resolved in the affirmative.

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE
Report on Matter of Privilege

MADAM SPEAKER: Members, I present a report of the Standing Committee on Administration and Procedures on the matter of privilege referred to it by the Assembly on 7 December 1993 entitled "Report on the Government Response to the Report of the Select Committee on Estimates 1993-94 on the Appropriation Bill 1993-94", together with extracts of the minutes of proceedings.

MR HUMPHRIES (12.02): Madam Speaker, I move:

That the report be noted.

This is the second matter on which the Administration and Procedures Committee has reported to the Assembly arising out of the Estimates Committee report of last year. Ms Szuty, as the chair of that committee, raised the question of the nature of the Government's response to that committee report at about the time she tabled the report. She indicated that there appeared to be a number of comments in the Government's response to the report which were responses not to recommendations of the final report tabled in the Assembly but to the third draft report of the Estimates Committee, which of course was not tabled in the Assembly. Ms Szuty was able to cite at least three examples of recommendations in the Government's response which were different in wording from the recommendations contained in the committee's final report. Quite appropriately, as a result of raising that concern, the house decided to refer the matter of this report to the Administration and Procedures Committee to investigate whether a contempt or some breach of the standing orders had occurred.

I might comment briefly on the composition of the committee dealing with such an inquiry. It is obvious that the three members of the Administration and Procedures Committee were also members of that Select Committee on Estimates. It was noted that, in an Assembly of only 17 members, at least 11 of whom had been members of the Estimates Committee, four of whom were Ministers appearing before the committee, and you also appeared before the committee, Madam Speaker, it was very difficult to appoint a workable committee that had no involvement with the Select Committee on Estimates that prepared the report.

The members of the Administration and Procedures Committee nonetheless decided that it was appropriate for that committee to consider the matter and to ensure that appropriate measures were taken to prevent the members of the committee having a conflict of interest, principally by ensuring that members were not present when their own responses to the requests for information sent out by the committee were considered by the committee.

There were two issues before the committee. One was the question of whether a breach of standing orders had occurred, being particularly standing orders 241 and 242. Standing order 241 says, essentially, that evidence taken by a committee and documents of the committee shall be strictly confidential and shall not be published or divulged. Standing order 242 makes similar reference to the confidentiality of information put before committees. The other issue before the committee was the question of contempt. It is well established that the releasing of information before a committee is potentially to be regarded as contempt of the committee where that has been done in such a way as to undermine the process or to subvert the process of the committee's report.

Madam Speaker, the Administration and Procedures Committee wrote to all the members of the Estimates Committee and to the Treasurer to ask the essential question: Do any of you know how Treasury officials apparently came into possession of either a draft copy of the report or information concerning the recommendations and conclusions of the draft report of the Estimates Committee? The suggestion that there was some access to either

the document or information contained in the document by Treasury officials was confirmed by advice from the Clerk of the Assembly that he had been contacted on 11 November last year to comment on a particular recommendation contained in the draft report of the committee. It should be noted that the report of the committee was not tabled in the Assembly until 23 November 1993, some two weeks later. Members responded indicating that they had had no knowledge of the matter. The Treasurer responded indicating that she was not aware of how documents of that kind would have come into the hands of any of her officers. She also indicated that she viewed the disclosure of such information in that fashion with great concern - those are her words.

The committee had little information to go on in those circumstances and it found a number of things: Firstly, that the Treasury officers did have knowledge at least of a draft document of the Estimates Committee; secondly, that a contempt had been committed, both by those who made those findings or recommendations available to Treasury officers or the personal staff of the Treasurer and by the Treasury officials who received or used that information, although the committee is careful to point out that this is, in a sense, a secondary contempt rather than a primary contempt. The chief responsibility for the matter rests on the shoulders of those who actually made the information available.

The committee believes that there is potential damage in two particular heads that might be done to the committee process by reason of that kind of information becoming available. Firstly, there is the danger to the committee system as a whole, and we quote from a 1985 House of Commons committee report on issues of this kind, which said:

... if Members of committees are shown to be incapable of treating their proceedings as confidential, those who give evidence in confidence to select committees ... might become more reluctant to do so.

The second head of damage was that damage done by undermining the trust and goodwill among members of committees.

Madam Speaker, the Administration and Procedures Committee makes four recommendations to the Assembly. In doing so, we gave serious consideration to calling the Under Treasurer and particular Treasury officials to appear before the committee and to explain how these issues may have arisen. The committee felt that it had a right to obtain this information; but, notwithstanding that, it felt that this had to be balanced against the possibility that the committee's inquiry could be viewed as a witch-hunt against officers who, after all, had committed a secondary contempt rather than a primary contempt, and that if such a witch-hunt could be perceived to have occurred it could damage careers in the public service. It decided, in those circumstances, not to call officers of the Treasury before it.

The four recommendations are: Firstly, that the Treasurer present a report to the Assembly outlining the procedures and practice she has put in place in the Treasury to ensure that documents of this kind are not in future made available to officers. Secondly, it was noted that the ACT Government handbook on participation in parliamentary and other inquiries peculiarly makes no reference to the confidentiality of

draft reports of Assembly committees and that this should be remedied as expeditiously as possible. It recommends, thirdly, that the Government urge all ACT Government officers who have duties associated with participating in inquiries of parliamentary committees to attend seminars on the role and operation of parliamentary committees. The last recommendation is that the Government respond to this report of the Administration and Procedures Committee before the presentation of the 1994-95 budget. Madam Speaker, I commend the report to the Assembly.

MS FOLLETT (Chief Minister and Treasurer) (12.11): Madam Speaker, in responding to the report on behalf of the Government, I wish, firstly, to reiterate my concern over the incidents that gave rise to this report. As I said to the committee, I do recognise that confidentiality is central to the effective operation of the committee process and I certainly do not condone any departure from that confidentiality. I also recognise the importance of the role of the committee process to the Assembly. I recognise as well that in participating in the committee processes all members have to have confidence in the confidentiality of those processes, as do people who may be giving evidence to committees from time to time. I repeat that I have no knowledge of the circumstances surrounding this matter. I take on faith the evidence, as reported in the committee report, that the events that have been investigated did actually occur. I have no reason to doubt that that is a true statement, and it is of great concern to me.

Madam Speaker, I would like briefly to defend my Treasury officers in this matter and to say that whatever action they took was designed to make for better service, not only to the Government but to the Assembly as well, by way of the provision of a timely response to the Estimates Committee's report. If there was an error made within Treasury, I consider it to be an error of process rather than anything more egregious. I very much appreciate the Administration and Procedures Committee's protection of those Treasury officials by way of not calling them to give evidence. I know that such an occurrence could have had an impact on the careers of public servants and I want to record the fact that the committee has not sought to jeopardise people in that way. I appreciate that very much.

I had a chance, while Mr Humphries was speaking, to review the four recommendations from the committee. I have no hesitation on behalf of the Government in accepting all four of those recommendations. In particular, the handbook on ACT Government participation in parliamentary inquiries quite clearly does need to be reviewed and updated so that there is a much clearer understanding of the role of committees and the confidentiality of draft material. I also consider that as we mature in self-government, shall I say, there is a constant need for training and for information dispersal amongst the public servants and the very many different arms of the Government Service. So, as I say, I have no hesitation in accepting all four recommendations.

MS SZUTY (12.15): I would like to comment briefly on the remarks the Chief Minister has made on the Administration and Procedures Committee report this morning. The Chief Minister said that she believed that, on face value, it was the draft report of the committee that was responded to by Treasury and not the final report, and, in fact, Madam Speaker, I did present to you evidence that demonstrated fairly categorically that that was the case. The wording of the draft report was quite different from the wording of the final report, so there was really no question that the draft report was responded to.

The Chief Minister also said that Treasury wanted to expedite the process for the benefit of the Assembly in providing their response to the committee's report in a timely manner, and I have no doubt that that was their intention. It is interesting for me that, for the first time in this Assembly, last year Treasury had a longer timeframe within which to respond to the committee's report before the debate on the report took place. So it was disappointing for me, the committee having granted the extra time for Treasury to do the job they were always intended to do, that this occurred.

I welcome the Chief Minister's response to the recommendations in this report. I applaud the work the Administration and Procedures Committee has done in addressing the issues that arose with regard to the draft report of the Estimates Committee. However, on a final note, I would suggest to the Chief Minister that the corrected Government response to the Estimates Committee report that was given to me towards the end of last year be tabled in this Assembly to set the record straight.

Question resolved in the affirmative.

Sitting suspended from 12.17 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Follett Government - Affirmative Action

MRS CARNELL: Madam Speaker, my question without notice is to the Chief Minister. Your party platform says, on page 7 in fact, that Labor will encourage equal representation of women in government. When you set about choosing a new Minister this week you had three women and one man to choose from. Your existing Cabinet had two men and one woman. Your affirmative action policy required you to pick a woman for the job - assuming, of course, that any of them are capable. Why therefore did you select Mr Lamont? Did you not think any of the women on that side of the house, apart from yourself of course, were capable of doing the job? Most importantly, what message do you believe that sends to women attempting to break the glass ceiling?

MS FOLLETT: Madam Speaker, I thank Mrs Carnell for the question. In replying to her question I do note that she is the only woman in the Liberal ranks. In fact, when the Liberals were in government under the Alliance they had no women Ministers, although it was known that at least one woman was consistently agitating for a ministerial position. Madam Speaker, the election of Ministers is a matter for my parliamentary caucus, and Mrs Carnell seeks to misrepresent that process. The fact of the matter is that the Labor Party leads the field in terms of affirmative action. We have - - -

Mrs Carnell: Just have a look. Who is at the back?

Mr De Domenico: Where? Have a look. Have a look at the front bench.

MADAM SPEAKER: Order! Please allow the Chief Minister to finish.

MS FOLLETT: Madam Speaker, when members opposite look across to the Government's benches they will see that precisely half of our members are women. That boast cannot be made by any other party, any other group, in this Assembly, and it could never have been made by the Liberal Party. Madam Speaker, if Mrs Carnell knew anything whatsoever about the Labor Party's policies, which she does not, she would know that affirmative action does not apply in single positions. She obviously did not read on. She did not bother about that. Also, women have to nominate for positions. Just bear those two facts in mind. Madam Speaker, on this side of the house we have a team of people who are committed to a common purpose. The equal representation of women is very much a part of that purpose. You only have to look at our record in government to recognise that that is the case.

I know that Mrs Carnell is trying desperately to win some points out of her recent activity. She has failed completely so far, in my view - failed miserably - and is looking more and more churlish by the hour, as time passes. This is a stupid question. I think that the decision made by our caucus was a good one. It was one which we will all accept fully. We will work together as a team, as we always have, recognising that we have within our caucus people with different strengths. We have a pool of talent to draw upon, which is something that the Liberals most certainly could not boast. We provided the first female leader of any government at this level and we provided a woman as Speaker. The achievements of Labor in terms of affirmative action are second to none. I know that that makes Mrs Carnell cringe, but it is a fact; and it is a fact she is going to have to live with for a long time yet.

MRS CARNELL: I ask a supplementary question, Madam Speaker. Is it not true that the basis of your appointment was factional politics, which always comes above merit, of course, as Mr Connolly would know, rather than gender equity in your party?

MS FOLLETT: Madam Speaker, I am looking across the room at the fifth Liberal leader in five years.

Members interjected.

MADAM SPEAKER: Order! The Chief Minister has the floor. Let us have some order.

MS FOLLETT: I decline to answer the question, given that they would rather answer it themselves.

Commercial Leases - Renewal

MRS GRASSBY: Madam Speaker, my question is to the Minister for the Environment, Land and Planning, Mr Wood. I refer to the article in today's *Canberra Times*, on page 14. What is the Government proposing to do about the renewal of commercial leases?

MR WOOD: Madam Speaker, there is considerable interest in the renewal of commercial leases. I was proposing to address that in some statements I made to a business organisation yesterday, but because of a media conference - the media was so interested in the ALP and all of our good policies - I did not get to that meeting. The land Act provides that within 30 years of a lease expiring the lessee can seek, under particular terms and conditions, an extension of that lease. The particular terms and conditions are to be worked out. Numbers of leases are beginning to approach the time when they fall due, so I can tell Mrs Grassby that it is obviously a matter that we need to attend to in order to determine what our policy will be. It is clearly one of considerable interest to the commercial sector in the ACT; not just to the commercial sector, but to all ACT citizens who understand the leasehold system and have certain expectations arising from that system. It is a matter that I am beginning to give some attention. It is one that I will talk about broadly around the community and I will in due course bring to the Government recommendations as to our policy on terms and conditions for lease renewal.

ACTTAB - Contract with VITAB Ltd

MR DE DOMENICO: Madam Speaker, my question without notice is to the Deputy Chief Minister in his capacity as Minister for Sport. Noting the importance to the ACT racing industry and to the ACT punter that we are linked to a pooling arrangement anywhere, and noting that the New South Wales Minister has publicly stated, on a number of occasions, that New South Wales will not admit the ACT into their pool as long as we are linked to VITAB, will the Minister give an undertaking that he will immediately institute proceedings to jettison the contract with VITAB so that the negotiations with New South Wales can proceed?

MR LAMONT: I thank Mr De Domenico for his question. As I have said to you privately since my assumption of the responsibilities of the Minister for Sport, you can rest assured that the actions that I will be taking in regard to the continuation of pooling arrangements in the Territory will be in the interest of punters in the Territory. The Chief Minister has announced an inquiry into the VITAB issue. You were substantially briefed on that in the course of the debate that occurred in this house over the last few days. I have been informed by officers of the department that discussions are under way with the New South Wales TAB in relation to those pooling arrangements, and when I am in a better position to inform the house as to the progress of those discussions you can rest assured that I will do so. Mr De Domenico can rest assured that any decisions or action taken by me as Minister will be in the interest of punters in the ACT.

MR DE DOMENICO: I have a supplementary question, Madam Speaker. Minister, can you indicate to the house, once you find out, whether the ACT is likely to face any penalty if we do need to terminate the contract with VITAB?

Mrs Carnell: When we need to terminate the contract.

MR DE DOMENICO: When we need to terminate the contract with VITAB. Also, should we have to link with New South Wales - - -

Mr Berry: I raise a point of order, Madam Speaker. This is stretching supplementary questions to the limit. I do not mind, from this side of the house, listening to a new question in relation to a matter, but that is not a supplementary question. It sounds to me like a new one.

MADAM SPEAKER: Mr Berry is quite correct, Mr De Domenico. I would caution you to have a look at the standing orders relating to supplementary questions. The supplementary question must refer directly to information that was part of the first question and not have a preamble attached. Please focus on the supplementary part of the question, Mr De Domenico.

MR DE DOMENICO: Madam Speaker, I refer to the Minister's answer to my initial question when he said that he was going to be briefed at a future time, and I think it is tomorrow. When he is briefed tomorrow, in response to my first question will he make sure that he indicates to the Assembly whether there is likely to be a penalty under that contract if we ever have to break it? Secondly, can he ascertain, when he is briefed tomorrow, and will he report back to the Assembly whether, in fact, if we do link with New South Wales, we will have to spend an enormous amount of money upgrading our computer equipment in order to fit in with New South Wales state-of-the-art equipment?

MR LAMONT: I thank you for the supplementary question. The first part of it seeks my opinion on a legal matter and I believe, on that basis, that I am unable to answer. I would suggest, Mr De Domenico, that that part of your question is out of order. As far as the second part of your question is concerned, I have had some preliminary discussions in relation to the appropriate changes or variations which may be required if such a pooling arrangement were to eventuate. I have not been informed as to any costing of such arrangement. Obviously I am as desirous as you are that that pooling arrangement be entered into. Again, I refer you to my first statement; that it is my conviction that what we do will be in the interest of punters, and that includes, obviously, the costs of establishing that new system.

Mugga Lane Tip

MR STEVENSON: My question is to the new Minister for roads, rates and rubbish, Mr Lamont. I ask it on behalf of a constituent, of course. Is it reasonable that Queanbeyan residents use Mugga Lane tip for free, as evidenced by the numerous New South Wales plated cars lined up with trailer loads of domestic waste, when ACT businesses have to pay?

MR LAMONT: I thank you for the question, Mr Stevenson. I think you have been informed previously in this house that residents of Queanbeyan do pay via a payment received by the ACT Administration from the city of Queanbeyan for the use of Mugga Lane tip. The Minister announced in last year's budget that, upon the implementation of a comprehensive kerbside recycling service in the ACT, modest tip fees would be introduced in the ACT. Residents of Queanbeyan, unlike residents of the Territory, will not have the complimentary vouchers which will be issued to ACT residents as far as use of the tip is concerned. Should you wish any further briefing on the matter, officers of my department will be only too pleased to provide it.

Petrol Station Site

MR WESTENDE: Madam Speaker, my question without notice is to the Minister for the Environment, Land and Planning, Mr Bill Wood. I refer to paragraph 18.3 of the agreement between the ACT Government and Burmah Fuels Australia, which was tabled in the Assembly yesterday. It provides that Burmah Fuels must take precautions so that no contaminated run-off from the site can escape into any stormwater drains. My question is: Can the Minister advise the Assembly what precautions have been taken so that no contaminated run-off from the site can escape? What work, if any, has been undertaken to date on the site? What monitoring has taken place to ensure that no contamination occurs, and has any contamination occurred?

MR WOOD: Madam Speaker, I take it that Mr Westende is accurate in his reference to a certain paragraph. It is certainly the case that we paid a great deal of attention to the environmental urgencies around the Burmah site, as we do around any site for a petrol station. It is reasonably well established that a lot of older sites for petrol delivery do have contamination. There always seems to be some leakage from the tanks. Where the operation has been in place for some considerable time there is a likelihood of leakage. The assessment report that Mr Connolly referred to yesterday ascertained the details of that. Burmah was required to undertake the specific construction to ensure that the new tanks that went in, as for all new sites, were of the highest design. As I understand it, there was a containment construction around those tanks, should leaks occur now or in the future.

In answer to the latter part of the question, I am not aware of what monitoring has been done since then. I will ascertain that for you. I understand that the work has been carefully done. The soil, where there was some contamination, was removed prior to the installation. It was placed in a safe area, contrary to an article in some newspaper or some report or other that was around the service stations. Contrary to that, it has been safely contained. As appropriate, some of that soil has been returned to a particular area. Great care was taken in putting in the new tanks, in developing the site, to see that every environmental requirement was followed. I am not aware that there has been any monitoring since. I do not think - in the case of a new station - that there would be regular monitoring, certainly within the first few months of operation; but I will ascertain that detail for Mr Westende.

Community Safety

MS SZUTY: Madam Speaker, my question without notice is also to the Minister for the Environment, Land and Planning, Mr Wood. My question concerns the perception that areas of Civic are unsafe, particularly after hours, and what this may mean for residential development in Civic. In this context, I am sure all members are aware of the recent sale off the plan of residential units to be built on the site of the old ANZ offices in Civic and the fact that the demand for these units was so great that a ballot process was needed to allocate them. This clearly demonstrates a strong demand for residential accommodation in Civic - a most welcome development. In an article for the Reid Residents Association journal, the Chief Planner, George Tomlins, indicated that the Territory Planning Authority will be undertaking a study of the relationships - - -

Mr Berry: I take a point of order. The question is getting a bit long, I think. This is the sort of question that really ought to go on notice.

MADAM SPEAKER: The question does seem mighty long, Ms Szuty. Would you like to accelerate it a little.

MS SZUTY: I am coming to the point, Madam Speaker. I think I got to the point that the Planning Authority will be undertaking a study of the relationships between planning, design and safety in Civic and in other areas, that this will involve a safety audit of Civic and that it will ultimately contribute to the formulation of an integrated community safety strategy for the ACT - something which Mr Connolly has talked about. Can the Minister inform the Assembly whether the study has started and when it is likely to be completed?

MR WOOD: Madam Speaker, I think the first thing I would say in relation to the sale of the ANZ Bank units, if I can put it that way, is that the best way of making Civic safe is to put people into it. It is very well established that the busier a place is the safer it is. Any policies that have people in Civic, close to the city, are good policies toward maintaining a very safe record. The study is under way. In large measure, that is in terms of laying it out, how it is going to proceed, and discussions between people in Mr Connolly's area and mine. It is under way. You obviously have seen some of the pre-material coming out. We are getting to the stage where we will be talking further to community groups, to people who are interested. It is going well. As to the time of completion, I do not have a date. I am not sure whether a particular date for completion has been set. I might indicate that we have a number of studies going on around Civic, and in some measure or other they do tend to impact on safety. There is quite a deal of activity on the subject of Civic. Civic is going to be the vital, throbbing, active heart of Canberra.

Government Service Legislation

MR KAINE: Madam Speaker, through you, I have a question to the Chief Minister, Ms Follett, in connection with the establishment of our own public service. Chief Minister, you have already slipped the date to establish the public service by one year, from 1 July last year to 1 July this year, and when you did that you said that you expected to have the legislation passed by this Assembly in November of last year. Then you revised that and said that you expected it to be passed by February of this year. It is now the middle of April. First of all, when do you intend to table the legislation in this house? Secondly, given your inability to get it to the point where you can do so, how long do you think is a reasonable time for committee consideration of that Bill after it is tabled? Having regard to that answer, how do you rate the probability of getting your public service in place on 1 July this year?

MS FOLLETT: I thank Mr Kaine for the question. Madam Speaker, first of all, I expect to introduce the Public Sector Management Bill into the Assembly next week. Members will then have an opportunity to have a look at the Bill and to examine it in conjunction with another Bill which will be necessary, and that is the Public Sector Management (Consequential and Transitional Provisions) Bill. The drafting of those two Bills is on track and they will be with us in the Assembly next week. As to what is a reasonable length of time for the committee to consider the Bills, that is really a matter for the committee itself, Madam Speaker. Given that there is a deadline of 1 July, and given also that the committee has had a draft Bill available to it for some time now, I expect - - -

Mr Kaine: We cannot do anything with it because you gave it to us on the basis of confidentiality. We cannot discuss it with anybody.

MADAM SPEAKER: Mr Kaine, you have asked your question.

MS FOLLETT: Madam Speaker, given those two circumstances, I expect that the committee would not wish to delay the commencement of the separate public service arrangements beyond 1 July. I should also mention, Madam Speaker, that it is necessary for the Federal Parliament to pass complementary legislation. I have consistently been advised by them that they would match our timetable. In fact I wrote to the Prime Minister not so very long ago asking him to let me know if there was any impediment to that. I am not aware that there is any impediment.

Overall, Madam Speaker, the position as far as the ACT Government goes is that we are responding to the Commonwealth's timetable on this matter. It was they who established the date and we have done our utmost to work towards it. If the Commonwealth falls behind or in some way delays the commencement of the separate service beyond 1 July, we will have no alternative but to delay our arrangements as well. I do not expect that that will be the case. I expect that once the Bill is available the committee's consideration can proceed forthwith. What members do need to understand is that, apart from the Bills, there is a large amount of information that also has to be prepared. They are the public service standards and guidelines, which are very much more comprehensive than the Bill

and have presented an enormous challenge in preparation. It has been a vast amount of work for a quite small number of people, and I think the fact that they have achieved the deadline so far and that we are, at least, on track for a 1 July commencement is very much to their credit.

MR KAINE: I have a supplementary question, Madam Speaker. Chief Minister, given the big question mark around the timing - and I suggest that there is - have the orders yet been placed for the special biros and the special bottling of wine, or is that still in abeyance?

MS FOLLETT: Madam Speaker, I certainly have placed no such orders, and I do not know whether such orders have been placed; but I will take the opportunity to say that I believe that it is very important for all of our public servants to accept that they are in a separate service and to adopt a corporate mentality towards that service, to commit themselves to the service of the ACT community rather than to the broader service that is involved in a Commonwealth Public Service position. I support the initiatives that have been taken by management in seeking to bring about that cultural change for our public servants. I am not sure whether that involves biros or bottles of wine or what, but I do think it is a very worthwhile endeavour that they are undertaking because this is, I think, likely to be the only new public service that will be formed in Australia.

It is a significant step indeed, not just for the Territory but for the people who work for the service, and I wish to see it done well. I am sure that the managers within the service also wish to see it done well and in a manner that our own Government Service employees can be proud of and be part of rather than feel that in some way they have been cut off from the Commonwealth or in some way have been made second-rate citizens. They certainly have not been, and I wish to ensure that they do feel that sense of pride, that sense of belonging and that sense of service to a specific community that is involved in the formation of the new service.

Kingston Bus Depot

MR BERRY: I have a question for the Deputy Chief Minister. This is a matter of some curiosity, as I understand it. Since the Kingston bus depot is not being used for all of its former uses, people will wonder what might happen to it. I would like to hear a little bit of information about any interim uses for the Kingston bus depot that might be under consideration.

MR LAMONT: I thank the member for his interest in this matter. Madam Speaker, as this is my first opportunity as a Minister to answer questions in question time - obviously the other side was too afraid yesterday - may I congratulate you as a Labor woman on occupying the position in this chamber that you do. It is often a matter that is overlooked by those opposite.

As the member has said, there have been a number of suggestions for interim use for the area no longer used as the Kingston bus depot. The former Minister, Mr Connolly, has agreed in principle for a Sunday arts and crafts market to be established in that centre. Additional work is required to be undertaken before that can be implemented. Some of those things that need to be done, Mr Berry, include ensuring that we comply with the appropriate planning requirements for the area and that the people proposing to use it for this purpose have the appropriate coverage for public liability and so forth. Once those matters have been finalised I will inform the Assembly of the commencement date of this important initiative.

MR BERRY: Madam Speaker, I have a supplementary question. Deputy Chief Minister, I wonder whether you have briefed the Moore-Stevenson group yet? If not, I suggest that you do it quickly.

Mr De Domenico: I take a point of order, Madam Speaker.

MADAM SPEAKER: The point is taken, Mr De Domenico.

MR LAMONT: I will take on board this good advice, Madam Speaker.

Non-Government Schools Funding

MR CORNWELL: My question is addressed to Mr Wood, the Minister for Education. Minister, the ACT Government recurrent funding, at 50 per cent of the Commonwealth level, for non-government schools is being changed from 1995. However, I understand that relativities are being retained. Can you explain whether this maintenance of relativities is, in fact, so? Secondly, will it result in less funding for the non-government sector, or sections of it?

MR WOOD: Madam Speaker, I think the record of the Labor Government has shown that we pay very careful attention to the non-government school sector, and that they have been very well dealt with by the Government. Obviously, as for the government school system, we do not have the unlimited amount of money that some people think should be there to provide all the funds that they would wish to have. I am not able to answer your question because this is at present a matter of discussion between me and the Education Department, and between the Education Department and the non-government school sector, as I prepare to take a submission to Cabinet for budget consideration. The matter is active and alive, no decisions have been reached.

MR CORNWELL: I ask a supplementary question. When you say that the department is consulting with the non-government sector, Minister, does that include representatives from the Parents and Friends Association of the ACT?

MR WOOD: Madam Speaker, I believe so. I see that group and others in the non-government sector regularly. They and the department carry on routine discussions. I believe that they have met. I do not check that they do meet at particular times, but I believe that there are discussions. In particular, there are discussions between the non-government schools advisory committee that I have established and the department. That, of course, is the primary point of communication.

Ms Follett: I ask that further questions be placed on the notice paper.

ELECTORAL (AMENDMENT) BILL 1993

[COGNATE BILL:

ELECTORAL (AMENDMENT) (CONSEQUENTIAL PROVISIONS) BILL 1993]

Debate resumed from 16 December 1993, on motion by **Ms Follett**:

That this Bill be agreed to in principle.

MADAM SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Electoral (Amendment) (Consequential Provisions) Bill 1993? There being no objection, that course will be followed. I remind members that in debating order of the day No. 1 they may also address their remarks to order of the day No. 2.

MR HUMPHRIES (3.03): I will take up the response of the Opposition initially on this matter. Madam Speaker, it has taken a long, long time to reach this point, the point where the Assembly can begin to debate the Electoral (Amendment) Bill which will determine the system which the ACT uses to elect its Third Assembly in February of 1995. There are many people who have been keenly interested in this process, who have watched it for some time, who have waited for the outcome, who expected certain things to happen sooner than this and who will be, I suppose, pleased to have reached this day. They will be even more pleased to see the end of this debate and the gazetting of the new electoral Bills. Many of them live in hope that what they will see will be something like what was decided by referendum in February of 1992 when the electors of the ACT, by a huge margin, supported the creation of the Hare-Clark electoral system as the system which the ACT will use for future elections.

This Bill, which was directly spawned by the referendum of 1992, has had a longer gestation period than an elephant, and it appears to be as cumbersome, as unwieldy and as strange looking as an elephant in many ways. What we have here is nothing like what many people expected. In fact, when one looks at the terms of this Bill, sees the details and reads its provisions, one very quickly comes to the conclusion that the Government had very good reason to take so long to reach the stage where it would table it, because it needed, obviously, every bit of that two years, between the referendum and the introduction of the Bill, in order to transform the decision made by the electors of Canberra into something that suited the factional needs of the Australian Labor Party.

Members interjected.

MR HUMPHRIES: Members opposite groan, shake their heads and laugh nervously at this suggestion; but there was very little laughter in the Government ranks in December of last year when Ms Follett tabled in this place this Bill, the same Bill that appears on the notice paper for today's debate. It caused her to execute what is now known very widely in the Territory as the "Rosemary rotation". She very quickly had to back away from the scandalous and quite outrageous suggestions that she put forward for, in particular, above-the-line voting.

She was forced very quickly to realise that the people of the ACT were not going to tolerate the kind of shenanigans which this Government dished up to them to corrupt the result of that referendum which had been carried so decisively in February 1992. The Chief Minister understood that very well and it took but seven days, as I recall - seven long, hard, tedious, painful days of the Government desperately trying to defend this stupid decision - before it came to the point where it would say, "We have had enough. We have felt the heat. You can turn the blowtorch off. We will back away from these outrageous ideas". They eventually did that. It did no credit to Rosemary Follett or to her Government that the idea should have been put forward in the first place and that it took so long to realise that this view was totally unacceptable to the people of Canberra.

The thing that stood out in this Bill as presented to the Assembly was this concept of above-the-line voting - a concept completely alien to the Hare-Clark system, completely at odds with it; a grafted on concept that resulted in the bastardisation of that system. What is more important, I think, is that this new concept resulted not just in the extensive watering down, the extensive adulteration, of what people had decided in February 1992; it also established what was apparently, as far as I can tell, a totally unique electoral system in the entire world. Nobody I have ever heard of has a Hare-Clark system with some kind of ticket voting system attached to it. It is just not what people have used and practised before.

It is nothing like the Hare-Clark electoral system which has been in operation in Tasmania since about 1905 and has worked extremely well in that State - a system which is extremely popular and well regarded and understood by the citizens of that State. Indeed, it is a totally new system. It is something produced from the fevered imaginations of those opposite, those people who were anxious to make sure that, whatever electoral system we ended up with, it did not stop the factional games which the ALP plays and achieving some kind of assured result when the electors of the ACT happen to choose which of the winners of that factional game are to get seats in the Assembly. It is to the eternal disgrace of the Australian Labor Party that it should have attempted to make that kind of clear rejection, clear dropping, debasing, of the ACT electors' decision.

Madam Speaker, there was a major debate which led to the referendum of 1992, and it went for at least some 12 months. That in turn led to a debate which more or less led to this Bill. There was more than three years in total, certainly, in which the process of establishing a new electoral system got under way, and I assume that it has come near to fruition. Yet in the very latest stages of that debate new concepts were put forward - very

radical new concepts - and the criticism can be levelled at the Government that it should have put these concepts, these ideas, these issues, on the table for the electors of the ACT to have some chance to comment on them, not necessarily even just at the referendum of 1992.

I note that Rosemary Follett, as the woman in government, the woman who led the Territory at the time of the referendum and the woman who hoped to - in fact did, as it transpired - run the Government that would be interpreting that referendum result, took no opportunity at any stage to say, "We prefer single-member electorates. That is our preferred position. But, if we are not successful on that, this is what we see the Hare-Clark system being all about". Her party, of course, had not been involved in drafting the case for Hare-Clark. She knew, or we thought she knew, that she was bound by the terms of that case as presented to the electors in the booklet sent to all their homes. Yet there was no attempt on her part to say, "Yes, we think Hare-Clark is actually all about having a rotated ballot-paper, but it is a system, we believe, or as we believe it is defined in this referendum, that allows for some kind of above-the-line voting as well, some kind of ticket arrangement. We do not think that how-to-vote cards are really part of the Hare-Clark system, and we believe this and that and the other". To describe the fox being in charge of the hen house as the way in which this Bill has been drafted and the issues have been put on the table for the consumption of the citizens of this Territory would not be an exaggeration. Certainly, the Bill before the Assembly today will need to be a very different Bill before members of this place can believe or say with confidence that this is the Hare-Clark system for which people voted in 1992.

Madam Speaker, I think the Chief Minister was given notice of these sorts of arguments some time ago, but I think she had some matters put to her in January, shortly after her famous backdown, when she was interviewed by Matthew Abraham on the ABC. When she returned from her summer holiday Mr Abraham asked her a number of questions about what she was going to be doing and how she was going to handle this electoral Bill in the Assembly. She was asked why it was that she had dropped above-the-line voting after taking all the pain and arguing for the case and putting it forward in this place. I want to quote her words. She said:

It was very clear to me that there was not support in the Assembly for that above-the-line voting system ...

That is an interesting argument. She asserts that she believes that she did not have the numbers. That is basically what she was saying with that phrase. That is a very important phrase to bear in mind, Madam Speaker, because, in looking at that argument, one has to accept that the Government has no sense of contrition about having put forward above-the-line voting. The Government does not have one iota of regret, one iota of guilt, a sense of shame even, for having put this idea forward. It follows from that that the next opportunity Ms Follett has to get the numbers to introduce some form of ticket voting system, whether it be above-the-line or below-the-line - we have to assume this on the basis of what she told the people of Canberra at that time - she will use it to give us once again bastardised Hare-Clark. We have to assume that.

Ms Follett has very clearly, very emphatically, ruled out above-the-line voting being put forward by her Government at this time; but there are a number of qualifications for that. We have no idea of what the use-by date for that promise is. We certainly have no idea of whether this promise extends to below-the-line voting. I still would like to hear the Chief Minister, now that the debate has started, give us some indication of what her views are about ticket voting in the context of this debate. I would particularly like her to start to articulate, only 10 months out from the 1995 election, what her electoral affairs policy is for that election and whether she intends to return to this question. Will she respect the decision which people voiced so forcefully back in December, and which caused her to back down in December, and will she respect the decision made at the referendum in 1992 and not introduce at some point in the immediate future - let us give her another two or three years - some further form of ticket voting? I would like to hear that from her own lips in unambiguous and unqualified terms.

The other point, of course, Madam Speaker, is that when she said that she effectively did not have the numbers in the Assembly - - - *(Quorum formed)* Thank you, Mr Stevenson. Madam Speaker, it is also clear that when she said that she did not have support for above-the-line voting she was, with respect, not being entirely ingenuous, because the matter had not been put to the elected representatives of the ACT at the time. Mr Stevenson has made it quite clear to me that he is prepared to consider the majority will of the electorate, as he puts it, in deciding whether there should be some kind of ticket system. Ms Follett, I suspect, had at the very least no confidence or no capacity for any confidence that her system as put forward in the December version of her Bill would be rejected. Unless she has had some discussion with Mr Stevenson of which I am unaware, I assume that she does not know what Mr Stevenson's views are about ticket voting. Therefore I can assume that, when she said that she did not have the numbers, either she had had some discussions of which other members of the Assembly are not aware, and I assume that that is not the case, as Mr Stevenson is shaking his head, or she knew that the reason she was withdrawing the suggestion was all to do with not having the support of the electorate, and nothing to do with not having the support of the members of the Assembly.

Mr Abraham put another very good question to her. Referring to the question of what should be in the Bill and what should not, he said:

But why not sort that out beforehand? That would have been fairly obvious ... what the Liberals and Independents were going to do.

Mr Abraham, I would submit, was saying, "Well, why did you not indicate your position? Why do you not put your ideas on the table and let them be addressed by the Independents and the Liberals, and anybody else for that matter, in a broad public debate?". In other words, why was it that above-the-line voting had to be not just not mentioned between February 1992 and December 1993 but actually positively denied every time it was put to her that there was going to be some major variation from the referendum result? I think another commentator made this point very well.

Part of the problem that the Government faced at the time was that they had kept this debate very tightly under wraps. They had not said, "Look, we are preparing a Bill on the electoral system and we think that we should put into that Bill a form of ticket voting above the line". There would have been no problem with that. In fact, I repeatedly invited Ms Follett to rule out options of that kind in this place. I asked her at least two questions. I think Mr Moore asked her a further question on the subject, or it might have been Ms Szuty. She was often asked in the media about these matters and she repeatedly gave the bland assertion that she was interested only in Hare-Clark as decided in the referendum. There was never the taking up of an opportunity to say, "We have in mind Hare-Clark, but we have these additional overlaying ideas to put in there as well". We never saw that, and I think, Madam Temporary Deputy Speaker, that that was quite disgraceful behaviour. The people of the ACT deserved more notice than they had of this idea and their reaction, understandably, was that they were pretty miffed about the whole thing.

There were many elements of the Bill not placed before the referendum or brought forward before its tabling. How-to-vote cards is one such element, for example. Anybody familiar with the Hare-Clark system would be forgiven for thinking that Hare-Clark meant no how-to-vote cards. How can you have a plausible, easily understood how-to-vote card in the context of a rotating ballot-paper? People's names are being moved around the ballot-paper. How do you describe a particular order when the ballot-paper will not reflect the order that appears, almost invariably, on their how-to-vote card? You simply cannot. If the intention of the Government was simply to provide for some kind of advice to the electors to reflect what was said on the ballot-paper, which hardly seems to be necessary, and also seems hardly to be credible, then I have to say that this was not the intention that was clearly put forward in the December version of the Bill. It was something quite different.

So, Madam Temporary Deputy Speaker, what we have had here from the beginning to the end has been what Mr Berry would call a web of deception. There was an attempt quite deliberately to mislead the people of the ACT until December of 1993 and to the last sitting day of the Assembly for 1993. There was then a two-month break when people could not have the chance to ask questions in the Assembly. There was no chance for there to be debate on the Government's proposals at that late stage to put forward a totally new electoral system, the Rosemary Follett Hare-Clark system, unlike anything in the world. There was as little opportunity as possible for debate before it was put in that form in the Assembly. I say, once again, shame on the Government for that kind of deception.

The referendum of 1992 approved the system of PR consisting of three electorates. The result was overwhelming, with 101,986 voters casting votes in favour of Hare-Clark, and 54,156 voting in favour of the Labor preferred single-member electorate system. If the opinion polls are to be believed, that was a major turnaround in the views of the electorate. At the early stages people were more familiar with single-member electorate systems. They were obviously prepared to vote for them in about the same proportions that they were later to vote for the Hare-Clark system; but as the debate went on people

began to realise that there were problems with single-member electorates in the ACT, and it was very clear at the end of the day that they would not succeed. Indeed, the referendum showed quite decisively that that was the outcome and that people would have a system which was proportional representation based and which was fair.

The job of this Assembly now is to give consideration to the wishes of the people as expressed in that referendum. This legislation is unlike other Bills. It cannot be changed lightly, in my view, by the members of this Assembly without seriously jeopardising the mandate that we have received from the electors. Madam Temporary Deputy Speaker, I note that the Government even proposes to remove the preamble to the Act, which I would have thought was an essential kind of requirement when we are looking at an electoral Bill. We have a mandate to do certain things and we cannot do something different because it happens to suit us because of a rush of blood to the head. *(Extension of time granted)*

Madam Temporary Deputy Speaker, the preamble was inserted in the Electoral Bill which was considered by the Assembly in 1992 because it was not like other Bills. This is a piece of legislation which was, in a sense, not made entirely at the volition of the Legislative Assembly but made at the behest of the people of Canberra, speaking directly through a referendum. That preamble contains information which should be forever in the Electoral Act of the ACT because this is the touchstone on which our legislation is based. We have, in a sense, no right to depart from what was in that referendum decision in formulating electoral laws - unless, of course, there is a substitute view of the electorate formulated very clearly through a referendum, and that, I think, has to be taken into account. Anything short of that, certainly even a mandate at an election, so-called, to change something in the Electoral Act, would not be sufficient. If party X promises to do something to the Electoral Act which conflicts with the fundamentals of this Hare-Clark system, I would submit, Madam Temporary Deputy Speaker, that that would not be sufficient to allow it to do that. You would need to put something to the people in a referendum unless the matter was of such a minor nature that it could be legitimately dealt with by politicians rather than by the electors. So, Madam Temporary Deputy Speaker, my party will be opposing the removal of most of the preamble which is in the Electoral Act.

Social engineering should not be the touchstone we use to decide what should be in this Bill. The Labor Party's record in Canberra for sneaking legislation before this place without the proper mandate is quite well established. In banning circuses and introducing radical changes to abortion laws and all sorts of issues, this Government has acted without clearly telegraphing its position. Again, in this Bill, there are a whole series of issues which have not been properly put before the people in any open fashion. For example, I find it extraordinary that at no time during the referendum campaign, nor before the tabling of her Bill - the two years after the campaign and before the tabling of her Bill - did the Chief Minister intimate to the people of Canberra that she proposed to extend the term of the Assembly from three to four years. If the Bill had come up without any mention of that issue and the Assembly had gone quickly on to vote on the issue, say in February of this year, there would have been no opportunity for the electors to express some point of view about this matter. Given that the Chief Minister said that she did not actually get anybody telling her that they did not like her Rosemary rotation, her

above-the-line voting system - she did say that in a radio interview, that she did not actually hear anybody tell her that they were not interested or did not like her proposal - we have to assume that they similarly would not express a view about three- or four-year terms, and have not done so.

What does this Government feel it needs to be able to make these decisions? I believe that before this Government embarks on four-year terms, before it embarks on public funding for election campaigns, before it introduces the how-to-vote cards, which are not part of the electoral system used in Tasmania, it has a strong responsibility to say to the people of the ACT, "This is what we propose to do". Of course, it has not done that. Even after this Bill was tabled in December last year, no attempt was made to start to generate some debate about this matter. All the debate about, for example, three-year terms versus four-year terms has been generated by the Opposition and the Independents. There has been none at all by this Government - no press releases on the subject, no invitations for public comment, no other means for people to put a point of view. I think it is quite extraordinary that this Government somehow believes that it can divine the will of the people through some kind of extraordinary process of examining the entrails of goats or something of that kind. I do not know what they do, but they certainly do not seem to talk to people about these sorts of issues. If the reaction of the electorate in December was any indication, people are quite concerned about some of these issues, and it took a week of the electorate stamping its feet and almost storming the Assembly before the Government reluctantly came to the view that they had a strong point of view about above-the-line ticket voting.

I remain very concerned about the whole process of the Electoral (Amendment) Bill and the electoral system. I believe, Madam Temporary Deputy Speaker, that the only clear way of dealing with that issue is by putting the fundamentals of our new Hare-Clark electoral system beyond the grasp of politicians operating from the basis of self-interest. I believe that this Assembly should facilitate a referendum, in conjunction with the 1995 election, to exploit section 26 of the self-government Act, to entrench the key elements of the Hare-Clark electoral system; and my party will be doing just that when the ACT Government brings forward its own legislation to enable referenda under section 26 of the self-government Act. I hope and trust that we have the bona fides of the Follett Government in making sure that that particular piece of Government legislation comes forward in sufficient time for it to be considered in an appropriate timeframe and for - - -

Mr Berry: No.

MR HUMPHRIES: No. Well, there is no undertaking. I see that the Chief Minister shakes her head. Mr Berry, who is still partly on the front bench apparently, also says no. Let me put it in clear language for you so that you understand. We cannot have a referendum unless we have a Bill to facilitate it. We cannot have a Bill for a referendum on the electoral system until we have legislation to facilitate referenda under section 26 of the self-government Act. That is your responsibility and I suggest that you make sure that it happens in time for that debate to take place. That is my advice to the Government, and I hope that this Government has the decency to ensure that it happens that way. I am not so sure that it will.

Madam Temporary Deputy Speaker, my party has made its position quite clear. We do not believe that the many features of this present Bill reflect the wishes of the people of the ACT as expressed at the referendum of 1992, and unless those provisions are changed in the course of debate in the detail stage of this legislation we will not be supporting it. I cannot commend the Bill to the house at this point. I would like to wait and see what happens. If the Government has any sense of decency about it, it will ensure that those key elements of the electoral system are reflected and honoured in what comes forward, and it will make sure that in future it does not attempt to so egregiously flout the expressed opinion of people in this Territory.

Some people talk about majority wills and opinions being expressed, and all sort of devices. I use that expression more sparingly because I do not believe that we can very often divine what people actually want. I do think on an occasion such as this that we can say with considerable certainty what the people of the ACT have approved and what they have not approved, and the changes which to some extent my party and to some extent the Chief Minister will be putting forward in this place will go some way towards making sure that what we vote for at the end of this debate is what the people of the ACT voted for; but that is yet to occur. I await the detail stage before I can have confidence that the opinion expressed by people is finally going to be honoured in the outcome of this legislation and the debate.

MR STEVENSON (3.32): "The health of any democracy, no matter what its type or status, depends on a small technical detail: the conduct of elections. Everything else is secondary". Those words were stated by Jose Ortego y Gasset in his *The Revolt of the Masses* back in 1930. It is fair comment.

Let me first of all talk about the referendum on the ACT electoral system. To do that, I need to discuss the Hare-Clark system. That system has its origins in the Hare-Ware system, a system that was proposed in the 1890s. It was a quota-preferential system. In the early 1900s the Hare-Clark system was spoken about. It was also a quota-preferential system. It was for multimember electorates.

I have said that the referendum was a fraud. I have said it in the house; I have said it often. Why I have said that needs to be looked at again, although I gave the reasons in detail when we debated the Electoral Bill. Let me look at the definition of "fraud" in the dictionary. The dictionary refers to "a dishonest trick" and "a fraudulent contrivance", among other things. I suggest that the 1992 referendum was a fraudulent contrivance, because it asked only two questions. Those two questions were to do with a system of 17 electorates or a system of three electorates. The system that we currently have, a single electorate, was not allowed as an option. I suggest that not to allow the people of Canberra to vote for a single electorate, particularly when that is the system we already have, was fraudulent. Were there any other reasons, although not needed, to allow people to have that choice? There were. In a statement on 4 July 1991 before the Senate, Senator Bell referred to a reply dated 30 May from the Electoral Commission to questions by him. It started off saying:

Dear Senator Bell

I refer to your letter of 29 May 1991 ...

It was certainly a prompt response. It mentioned that he asked for "advice regarding the suitability of any other electoral systems which may be available and appropriate to use in the ACT". The letter went on later to mention:

Concerning possible alternatives to modified d'Hondt: the Commission has consistently argued that one workable and defensible option would be the replacement of the modified d'Hondt system with a slightly altered version of the voting system used at Senate elections. In our Submission on the issue to the Joint Standing Committee on Electoral Matters, we put forward a number of alterations for consideration.

None of them recommended more than one electorate. *(Quorum formed)* Is there any other reason? I actually put out a document called "Fraud of the Year" in early 1993. It stated:

The 'Fraud of the Year' goes to the referendum on the electoral system held in conjunction with the ACT election. Most Canberrans believe the referendum was a choice between 17 single electorates or the Hare-Clark system. It wasn't! It was really a choice (and a limited one at that) between 17 electorates and three electorates. The fact that the Hare-Clark system was going to be used in each of the three electorates is of far less importance than the number of electorates.

Canberrans were not allowed a fair choice. In our polls, we asked people to vote on four choices. Of Canberrans with a view, 53% favour a single electorate of 17 members with a good preferential voting system ...

I add that a Hare-Clark system is a good preferential voting system. I continued:

The Australian Electoral Commission endorsed this as the best system for the ACT -

as I read out in Senator Bell's speech in December. I went on to say:

Of the other three choices, the '17 single electorates' and the 'Hare-Clark' systems each received 22% of the votes, while 3% voted for the existing d'Hondt system. Instead of allowing Canberrans their three main choices, the Federal Labor and Liberal Parties joined to restrict the referendum to two of the least favoured options. Thus they not only nobbled the favourite, they refused to let it in the race!

Why was this done? To deny Canberrans the right to be fairly represented in Parliament. Instead of a candidate being elected with 5.56% of the vote, as in the 1989 and 1992 elections, small parties and independents will require either 12.5% or 16.8% of the vote in the 1995 election.

In other words, the choices in the referendum were restricted so as to strongly advantage the major parties (Labor and Liberal) and discriminate against independents and minor parties.

I also mentioned that, when we took the vote on the ACT Electoral Bill after I called for a division, the vote was actually 16 to one. The reason I voted against it was that Canberrans were not allowed the choice of a single electorate. As I said, the mere fact that that had been the system that operated for two elections would have been a mandate for Canberrans to have that choice. Let me refer to the information that was given out to people in Canberra via the post. It was entitled "A Referendum for a new electoral system for the ACT Legislative Assembly". Under the heading "A message from the Electoral Commissioner", it says:

On polling day, Saturday 15 February 1992, you will be asked to choose between two electoral systems:

the Single Member Electorates system, or

the Proportional Representation (Hare-Clark) system.

I suggest that it would have been far more unbiased or fair to give a choice between the single electorate system and three electorates, with a Hare-Clark - proportional representation -type of system. This document mentions that the ACT will be divided into three separate electorates, of which two will elect five members each and one will elect seven members to the Legislative Assembly. However, it is very important to note - and I bring this to the attention of the ACT Electoral Commission - that on the day of the poll when people went to vote they were handed a ballot-paper that said:

Please put the number '1' in one of the boxes below to show which electoral system you believe should be used to elect members to the Australian Capital Territory Legislative Assembly.

Leave the other box empty.

EITHER

A proportional representation (Hare-Clark) system

(as outlined in the Commonwealth's *Referendum Options Description Sheet*)

OR

A single member electorates system

(as outlined in the Commonwealth's *Referendum Options Description Sheet*)

I suggest that that was entirely misleading. The key is three electorates, not Hare-Clark. It is not Hare-Clark; it is three electorates. It is important to mention that it is the Hare-Clark counting system that is going to be used. I think it is an excellent system, but the number of electorates is far more important. It is important to make the point again that Hare-Clark can be used for electorates with many different numbers of members. It can be used for a 17-member electorate, a single electorate, as well as three electorates with five, five and seven members. People in Canberra were never allowed a choice. I took the opportunity of the debate on above-the-line voting and other matters to try to let people in Canberra know that they were never allowed the choice. I think a lot more people now understand why I say that the referendum was a fraud. The referendum was a PIR - a politician-initiated referendum. It has been suggested that I said that the referendum result was a fraud. That is not true. I have mentioned again and again that the referendum was a fraud. The result was not a fraud, because that was the only choice people had.

Another point worth making is that it has been suggested that I proposed voting tickets. That is not true. I have never proposed voting tickets. I know that they have been proposed in a number of papers around Canberra. I was looking at *Izvestia* recently. I do not read Russian, but I noticed the letters CT used on more than one occasion. I wondered whether they stood for *Communist Times*, as many people in Canberra refer to the *Canberra Times* as. I wondered whether they were advertising for reporters. I was thinking of suggesting that I would be happy to give some of the political reporters on the *Canberra Times* a reference to *Izvestia*, but I decided that that really would not be fair to *Izvestia* for, after all, they are moving towards a more democratic system.

Let me refer to the survey that we have done over the last four days. The survey was conducted from 10 to 13 April 1994 in shopping centres in Civic, Woden, Weston, Dickson, Kippax, Belconnen, Tuggeranong and Mawson. A total of 507 persons completed the survey form. As shown in the results, not all chose to answer every survey question. For example, question No. 1 received the highest response at 489, and question No. 6 the lowest at 414. Let me go through some of the questions and the results. One question said:

This first question concerns how-to-vote cards being handed out to people as they approach polling booths on election day. Should this be ... Allowed? Banned?

Sixty-two cent said "Allowed"; 25 per cent said "Banned"; 10 per cent said "Not concerned about the issue"; and 3 per cent said "Not enough information". I mentioned this morning on radio that I would agree with the proposal already in the Bill regarding how-to-vote cards being handed out. Another question was:

Should there be public funding for candidates. This means that an amount, say one dollar, would be issued to candidates for each vote (1st preference) they received at the election. Should there be public funding?

Eighteen per cent said "Yes"; 77 per cent, "No"; 2 per cent, "Not concerned about the issue"; 2 per cent, "Not enough information". As the Liberal Party have an amendment before the house not to allow public funding, I will agree with that one. We asked:

Should the term of the next ACT Legislative Assembly be either: 2 years? 3 years? 4 years?

The results were 29 per cent for two years, 34 per cent for three years and 32 per cent for four years. Over 60 per cent want either two years or three years. Because of that, I will agree with the three-year proposal that has already been agreed upon by members of the house.

We asked other questions concerning the security of voting. (*Extension of time granted*) This is the next question:

To restrict the possibility of people voting at more than one polling booth should voters be required to cast a postal vote (sealed in an envelope with the person's name and address on the outside and with confidentiality preserved when opening) unless they vote at the polling booth nearest their home?

Fifty-five per cent said "Yes"; 33 per cent said "No"; 6 per cent said "Not concerned"; 6 per cent said "Not enough information". I will move an amendment later on so that people will vote at the polling booth nearest their home. I will bring that up in the detail stage. Another question was:

When an elector votes, should they mark the ballot paper with a: Pen? Pencil?

I thought the result was interesting. Eighty-five per cent said "Pen"; 7 per cent said "Pencil". Our final question was:

Should voters be required to show proof of identification and address, (eg, driver's licence, phone or electricity account, etc) at the polling booth?

Sixty-six per cent said "Yes"; 32 per cent, "No". I will also be introducing an amendment in the detail stage to require that voters at the polling booth show evidence of their identification and address. I will talk about that in the detail stage. Another vital question was:

Should there be voting tickets for parties, groups and independents? (a voter can mark one square only to vote for the list of candidates as registered by the party, group or independent).

The result was 54 per cent "Yes", 28 per cent "No", 8 per cent "Not concerned" and 10 per cent "Not enough information". Because of the referendum result, notwithstanding that I said that the referendum was a fraud, I do not propose to vote for that. But it highlights that there were not fair choices in the referendum in 1992.

There should have been at least three questions, and under those questions there should have been the option of preferential voting. People should have had the option to vote for different things. As an example, under the single electorate of 17 members there could very easily have been a choice of Hare-Clark or d'Hondt. Then people would have had a fair say.

I do not think for a second that people would have voted for d'Hondt, but they should have had the opportunity to do so. That would have been fair and just, but that was not allowed. Why is it that all crusaders of justice we have heard again and again over the last weeks did not do anything to make sure that a fair referendum was held in the first place? Where were they? Where in Canberra were all these people? Where were the media when I put out media - - -

Mr Connolly: I raise a point of order, Madam Speaker. Mr Stevenson was directing his question to the gentleman I can see disappearing out the door across the other side of London Circuit. He should be at least addressing members, if not addressing the Chair.

MR STEVENSON: They are coming in, as you will notice in a moment - - -

MADAM SPEAKER: Mr Stevenson, address your remarks this way, please.

MR STEVENSON: Where were the media, the protectors of our freedom who let people know what goes on, to tell them?

Mr Humphries: They are up there.

MR STEVENSON: I know that they are up in the box. I see them. It should not have been up to me to tell people. Anyone would have known that the referendum did not allow a choice of the system that we had operated under for six years. They should have done their homework and known that the Electoral Commission had not recommended a multimember electorate. They also could have done a survey, but not like the one that the *Canberra Times* did, which said that most people favoured single-member electorates. We had already surveyed that. I immediately said, "That one is not right". Gary said that it was an amazing reversal. No, it was not. There was a reversal; but it was not amazing, because the initial poll was not okay. I put out a media release on it and sent it to the *Canberra Times* at the time, but they did not print it, which is not unusual.

What is the solution to politician-initiated referendums? Politicians should be able to initiate referendums, but what do you do when they are fraudulent? What we must have is a situation where they can be fixed. That is called the electors initiative and referenda principle. Under the principle that I have tabled in this parliament and that we will debate in the not too distant future, citizens would have been able to add another question. They could have said, "What about offering us the choice of a single electorate?". The Electors Initiative and Referendum Bill that I have before this house allows people preferential voting. They would have been able to do what the Electoral Commission did not do for us. You ticked one of two boxes. Was that a choice?

An interesting thing is that people did not get a say on above-the-line boxes or below-the-line ticket voting - something I have never suggested - because obviously you do not tick a party if there are 17 single-member electorates and you do not tick a party under Hare-Clark. That was not a choice for people who may have wanted that. That is why I asked the question about voting tickets. I thought I would find out what people in Canberra want. One can say that they are wrong, but they were not given a choice. That is the point.

Mr Humphries: What do they want on that score? Do they want tickets?

MR STEVENSON: The point is that what they wanted initially was obviously a choice of a single electorate, and they were not given that choice. The referendum should have offered a fair choice. Mr Humphries and others have mentioned entrenchment. I would agree entirely with a referendum on entrenchment, provided, of course, that the first questions that were asked at the referendum were the ones that should have been asked at the 1992 referendum and it was done correctly, with the choice of preferential voting. Then I would vote for it.

I mentioned one point before, when Mr Humphries was talking and I called a quorum in the house. I was walking past the theatre outside yesterday, and as I looked up I noticed a computerised sign scrolling across. It said, "arry Humphries 'Look at me when I'm talking to you!'". I thought, "Good heavens! He has taken his act to the theatre". But I waited until it came around again and it said, of course, "Barry Humphries". It was not "Gary", as I thought when I picked it up right at that point.

Mr De Domenico: Which theatre? This one or the other one?

MR STEVENSON: The other theatre, next-door. They are both close together now, Mr De Domenico. Once again, it was a poor show, and anyone looking at the evidence will understand that it was a poor show. Many people do not know that the media whipped up a frenzy about above-the-line voting tickets as proposed in the initial Bill, but why did they not do the same about Canberrans being denied the opportunity?

MS SZUTY (3.56): Madam Speaker, in speaking at the in-principle stage of this debate, I am reminded that Australia is a signatory to the United Nations Covenant on Civil and Political Rights. Article 25 of this covenant says:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

... ...

The Electoral (Amendment) Bill currently before this Assembly defines how for years to come the electors of the ACT will exercise "the right and the opportunity" outlined in the UN covenant. We are in the unique situation of being able to give effect to the Hare-Clark electoral system selected by a "free expression of the will of the electors" at the 1992 referendum.

Of course, the Hare-Clark electoral system chosen by the electors of Canberra is a proportional representation electoral system. The merits of proportional representation, as opposed to the single-member constituency model inherited from Britain, have been argued now for well over a century. A good example of this debate is contained in Thomas Hare's substantial work on proportional representation, the fourth edition of which was published in 1873. This is the work upon which Tasmanian Attorney-General Andrew Clark drew when implementing the Hare-Clark system in the 1890s.

The electors of the ACT recognised the advantages of proportional representation in the referendum of 1992, and it is now a matter of history that two out of three ACT electors chose the Hare-Clark system. What does the electorate now expect us, as its elected representatives, to do? Quite simply, it is to have the Hare-Clark system with Robson rotation, as used in the Tasmanian elections, used in the ACT. When this Bill was tabled by the Chief Minister on 16 December 1993, many members of the public voiced their concern over the provision for above-the-line voting, as did members of this Assembly. The basis for this widespread concern was simple. Above-the-line voting meant nothing more than a regressive attempt to stifle the democratic principles espoused in the Robson rotation enhancement to the Hare-Clark system which is endorsed by all parties in Tasmania and expected by the electors of the ACT to be applied in the ACT.

It is interesting to reflect on how Robson rotation first came into being. The Robson rotation modification to the Hare-Clark system was originally designed to reduce the impact of the donkey vote. The impact of the donkey vote was of particular concern to Neil Robson, who said during debate on the issue in 1977:

I ask you, how can a just representation be secured, even for a small minority of citizens, if the pathetic, apathetic 'donkey' vote influences the final result.

But Robson rotation does more than just "rearrange the donkey vote", as Terry Aulich said. It also allows the electorate, rather than an anonymous party machine, to determine which members of a party are elected. Mary Willey of the Labor Party said in the Tasmanian Assembly in the 1979 debate on the introduction of Robson rotation that Hare-Clark "lets people hold their party allegiance, but change the personnel", and the rotated ballot-paper would make that easier. Doug Lowe, in his book *Price of Power*, said of Robson rotation:

With this basically simple modification, the Hare-Clark method of voting became the most democratic system of Proportional Representation in the world.

This is the system Canberrans want and expect the members of this Assembly to implement. Proportional representation systems can be grouped into two broad categories - list systems and the single transferable vote, or STV, system. The Hare-Clark system is an STV system, while the d'Hondt system is a list system, and I am sure that I do not need to canvass the relative merits of the two.

The Government's grafting of above-the-line voting onto the Hare-Clark system is essentially imposing a list system on top of an STV system. The two are philosophically incompatible, and such a hybrid system could not be expected to work well. After the tabling of the Bill, I made my views on above-the-line voting widely known. Together with Mr Moore, I made a particular point of making these views known to the Chief Minister. My position was simply that above-the-line voting was not acceptable; I was not prepared to negotiate over other matters contained in the Bill until above-the-line voting was withdrawn; and I expressed a lack of confidence in Rosemary Follett as Chief Minister due to her position on this issue.

Contrary to reports at the time, there was never an intention to withdraw support from the Government, only from the Chief Minister herself. I am gratified to see the Government's amendments to the Bill withdrawing the above-the-line voting provisions. As I have said before, Canberrans expect their new electoral system to reflect their choice at the referendum: The Hare-Clark system as described in the Electoral Commission's referendum booklet and as practised in Tasmania.

The Tasmanian electoral system has evolved over the years to the system in operation today. Indeed, Tasmanians have done good work in ironing out the wrinkles, and we in the ACT can benefit from their efforts. The Tasmanian experience does suggest one area of improvement, and that is the need to entrench the key provisions of Hare-Clark. In Tasmania the Hare-Clark system has come and gone at the whim of the government of the day. This is a part of the Tasmanian experience we do not need to repeat. I therefore support in principle the entrenchment of the key concepts of the Hare-Clark system.

There is clearly no need to try to reinvent the system itself. Needless add-ons such as the use of how-to-vote cards and above-the-line voting are nothing more than a denial of the Tasmanian experience. Tasmanians regularly use the Hare-Clark system effectively to elect their Assembly. In the 1992 elections the Tasmanian informal vote was under 5 per cent, while that in the ACT under modified d'Hondt approached 8 per cent. I am sure that the ACT electorate, which is one of the best informed in Australia, will cast a much higher percentage of formal votes at the 1995 election using the Hare-Clark system. There is no need to tinker with the Hare-Clark system to make this happen; we should expect it as a matter of course.

My position is straightforward, Madam Speaker. It is that stated in recommendation 8 of the working party on the report on the implementation of the Hare-Clark electoral system chaired by Mr Humphries. This recommendation states:

In order to keep faith with the voters of the ACT, the referendum options booklet, modelled as it was so closely on the legislation providing for the referendum, must be the primary source of guidance in drawing up the electoral legislation. To the extent that it differs from the Tasmanian Electoral Act 1985 in relation to voting and counting it should prevail. Elsewhere the Tasmanian legislation must be a strong starting point modified only to deliver increased fairness to participants and enhanced voter effectiveness.

An editorial in the Melbourne *Age* of 3 March 1980 said:

Tasmania has an electoral system that is clearly the best in Australia and one of the best in the world.

Dr Dean Jaensch of Flinders University said on the 7.30 *Report* on 11 May 1989, when talking on Hare-Clark:

It is a system, I think, Tasmanians should be proud of. The Hare-Clark system is, I consider, the fairest electoral system possible.

Madam Speaker, members should not be put off by what Dr Jaensch refers to as "the beautiful complexity of Hare-Clark". The Tasmanian experience works, and the ACT electorate wants the system adopted. This Bill should reflect this. I look forward, Madam Speaker, to making further contributions during this debate in the detail stage.

MR KAINE (4.05): After nearly 20 years on the local political scene I am never surprised at what I hear people say in debate. I am sometimes confounded, sometimes bemused; but I am never surprised. After listening to the debate today it is interesting just how far away from the point of the debate people can get. For example, we heard Mr Stevenson say that the whole thing is wrong because the referendum that the Commonwealth conducted two years ago was not the right referendum. Of course, he has his own views about the kinds of questions that should have been asked. I could postulate that each voter should have been given a blank sheet of paper and asked, "What kind of electoral system do you want? Write an essay and tell us what you want". That was not the way it was done. You had to confine the questions to something that was reasonable. Mr Stevenson did not like the questions.

I have not seen any ground swell of public opinion against the referendum that was held - not at the time and not since. There was not a huge informal vote at the referendum, so one has to assume that, by and large, people accepted that the referendum was right. It asked the right questions and it gave the right answer. To try to put a question mark around what is now being done by this parliament two years later as a consequential act to that referendum, and to say that it is not right because the referendum did not ask the right questions, is nonsense.

Mr Stevenson is not so pure himself. He has just handed out some documents relating to one of his Dennis polls. When I look at some of his questions I wonder why he framed them the way he did. For example, question No. 4 said, "Should ballot papers provide for", and then he has four alternatives. I can think of another alternative. Again, give them a blank piece of paper with five boxes on it and say, "Write in there five names that you want". Why did he not ask them that question? The fact is that Mr Stevenson had a pre-conception about the answers that he wanted. He framed his questions accordingly, to get the answers that he was looking for. A lot of people argue that referendums do the same thing. The answers you get depend on the questions you ask. I repeat that there has been no ground swell of public opinion that would suggest that the referendum was wrong - that it asked the wrong questions or that it gave the wrong answer - so we should set that aside and get on with dealing with the matter.

I come now to the Bill that the Government has put before us. The second thing that does not surprise me, but perhaps confounds me, is the lengths to which people will go to avoid doing what the community said they wanted. Mr Stevenson wants to manipulate it to suit himself. He said, "There should be a single electorate". Why would he say that there should be a single electorate? It would suit Mr Stevenson to have a single electorate because it enhances his chances of getting elected. He wants to manipulate it now and he says that we should not have three electorates; we should have only one.

Who knows how much further the Chief Minister is going to go, because I already have four different colours of paper here, four different sets of amendments to the Chief Minister's own Bill, and we have hardly begun to debate it. There are lots of colours in the spectrum that she has not used yet. Presumably we will get lots more amendments as the debate goes by and more and more issues are brought up as to where the Chief Minister is departing from the spirit and intent of the referendum.

The bottom line, as far as I am concerned, is that in the referendum the people said, "We want the Hare-Clark system as put in place in Tasmania and practised there - not above-the-line party voting, not below-the-line party voting, not how-to-vote cards, not party determined or party dictated voting orders and preferences". None of those things are part of the Hare-Clark system as practised in Tasmania; yet we have a Bill that tries to distort all of those things. Why is it that the Government and Mr Stevenson cannot accept the verdict of the people at the time of the referendum? They made it quite clear what they wanted. Why are you trying to manipulate the system? I can only presume that it is all dictated by self-interest, not by what the community wants. You are saying, "Let us have some hybrid system that works but distorts the result of the referendum and gives us something different, because it suits us". Madam Speaker, I will not buy that.

I am quite clear in my mind as to what the referendum question asked. I am quite clear in my mind as to the decision of the people when they voted in that referendum. I will not accept and I will not vote for a Bill that attempts to distort that and to produce an outcome that somebody sees as being in their interests. All of these things that have been referred to as changes from the system as it is instituted in Tasmania are not on unless we go back to the people with another referendum and say, "We have had some second thoughts and we think it should be worked this way. Do you agree?". Maybe Mr Stevenson can be involved in the process of framing the questions. But I do not think we want to do that. I do not think anybody in this place wants to do that.

Let us stick to the business at hand. Let us produce at the end of this debate an Act that provides what the people of Canberra asked for, and that is a system that is the same as that which is used in Tasmania. I hope, from now on, that we can confine our debate to that question; that we can eliminate those things that are in this Bill that do not achieve that objective and come up with an Act that will do just what the people want, and nothing more, and nothing less.

MR MOORE (4.11): Madam Speaker, it is with pleasure that I rise to speak on the Electoral (Amendment) Bill. I would like to address some of the contentious issues while at the same time recognising the great deal of work that has gone into such an extensive Bill which is so important for this Territory. We have the extraordinary opportunity, with this Bill containing over 300 clauses, to be able to establish our own electoral system. We have the extra benefit of a referendum which has clearly expressed the view of the people of the ACT that their preference is for the Hare-Clark system as it is used in Tasmania. Madam Speaker, when I say, "as it is used in Tasmania", my mind immediately goes to the fact that there are a number of electorates in Tasmania, not just one electorate, in spite of the fact that the population of Tasmania is not so different from the population of the ACT. I shall come back to that matter, Madam Speaker, when I address some of the points raised by Dennis Stevenson and his allegations of fraud.

I think it is most important, though, Madam Speaker, to address the attempted fraud of the Labor Government in attempting to introduce the above-the-line ticket voting option. It would be churlish to go into that in too much depth because, clearly, the Labor Party has finally agreed to do the right thing - to recognise the result of the referendum and to deliver it. I heard the Chief Minister speaking this morning on the Matthew Abraham show, and my understanding of what she said was that, unequivocally, she would not support a ticket voting option. If that is not the case, the Chief Minister has the opportunity to correct me. I believe that Labor, in the end, has done the right thing, and that is due to the fact that there is a minority government here. They are accountable to the Assembly. If that was not the fact, Madam Speaker, this is one example of how the people of the ACT would have missed out.

Madam Speaker, the second issue that I think needs to be addressed is that of how-to-vote cards. It seems to me that, when we talk about the electoral system as used in Tasmania, the perception of the people who voted is of a system without how-to-vote cards. However, it is fair to say that how-to-vote cards did not appear in the referendum sheet that was given to the people of the ACT. Therefore, it is not an issue of the same magnitude that we talk about in terms of the way Labor have voted. They have indicated quite clearly that they will support how-to-vote cards. The amendment put forward by Gary Humphries to have how-to-vote cards used only 100 metres from a polling booth is, I think, a very sensible amendment because it deals with the issue that has gone to the High Court about the right of people to publish and to present material to others. However, at the same time, it works, in what is clearly an acceptable way, to restrict people as to how close they are to a polling booth. At the moment the Bill says six metres. The proposal is a simple change to 100 metres.

Madam Speaker, I urge members to consider how this is done in Tasmania and to realise that with Robson rotation the intention of the system is to give people the opportunity to choose from individuals on the ticket. I believe that Canberrans are intelligent enough to be able to do that. The introduction of how-to-vote cards is much more likely to cause you and your party confusion than to cause other people confusion. The result of that will be seen when we vote on that issue.

Dennis Stevenson put one of his broad polls on my desk a little while ago. He was kind enough to hand it out. I will be disappointed if the media gives it any real attention because doing so gives it credibility, and I have some concern about that. When he asked his question about ticket voting, one has to wonder about all the questions he did not ask. He said that the referendum was a fraud because there was a question that was not asked, so what is left? Madam Speaker, the other issue that has been sorted out at this stage is the four-year or three-year term issue. I was prepared to put it to a referendum. The Government believes that that is not necessary. It has been agreed that an amendment will take place that will provide that we continue with three-year terms.

A series of other issues have been dealt with and I think that the most important of them is public funding. Madam Speaker, I support public funding in elections for a number of reasons. First of all, it allows people who simply cannot afford the money the opportunity to stand for public office. It certainly will remove the worst possible case scenario, the situation you have in the United States where somebody who decides to run for public office must find a great deal of money and therefore they invariably do not represent those who are less well off in that community. Secondly, I think public funding is also an issue in terms of prevention of fraud and corruption, which is very important. Nobody needs to be dependent on major donations in order to be elected. So it seems to me, Madam Speaker, that the issue of public funding is very important.

In the amendments presented by Gary Humphries there is provision for capping public funding at $40,000. When that was initially suggested during my discussions with the Liberals, Madam Speaker, I must say I was very attracted to the idea. I could see some merit in it. On reflection, after discussion with other members, it seems to me that it will be an issue that is very easily got around. One of the ways for a party to get around it, for example, believing that they would wind up with more than $40,000 in public funding, would be simply to call themselves Liberal Party 1, 2 and 3 or Labor Party 1, 2 or 3 for each electorate.

Mr Humphries: We would never do that.

MR MOORE: A Liberal Party member has interjected, saying that they certainly would not do that. Madam Speaker, it would be beyond me ever to suggest that. I said that as an example and I was trying to be even-handed by pointing the finger at both parties. This is an amendment to be put up by the Liberal Party, so I suspect that that is the case. Madam Speaker, it seems to me that any law that is so easily circumvented ought not to be part and parcel of our legislation and, therefore, I am reluctant to support it.

The other issue that is very important, Madam Speaker, is the issue of a referendum to entrench the Hare-Clark electoral system. The indications from the cross-chamber body language that was going on during Mr Humphries's speech and perhaps in a couple of interjections were that it may well be that there is no referendum legislation prepared by the Government in time to do this. I would suggest to Mr Humphries that I am happy to work with him on this.

There are two options that we have to ensure the entrenching of this legislation. The first one is to prepare a simple Bill ourselves that goes along the line that Federal legislation, where it is at all applicable, will apply in order to allow this referendum to proceed. I think we could achieve something in that way. The Government and the Parliamentary Counsel might dislike that so much that they might find time to prepare a proper Bill for us. I think we could work out something along those lines. Alternatively, and perhaps better, we could look at legislation that is used successfully in other States, simply adopt it and put it through this house to ensure that we can provide entrenching legislation. If we adopt legislation from other States it might need some minor modifications. I am aware of Labor, when they were in opposition, tabling some pieces of legislation that they had taken from other States. This is a method that has been used before and I think we could well look at. So we do still have a couple of options to ensure that such legislation is entrenched by referendum, if Mr Stevenson decides that enough questions can be asked. If not, then, like other issues, we lose.

Madam Speaker, I would like to take up a question that Mr Stevenson has raised, and that is the question of fraud in relation to the questions asked in this referendum and the fact that not enough questions were asked. I would like to talk about the impact that that has had on me. There is some irony in the fact that Mr Stevenson has argued this so strongly. Mr Stevenson has come very close to convincing me that citizens-initiated referendums are not an appropriate way to go. I now have reluctance and will take some convincing before believing that his Bill on citizens-initiated referendums should proceed. The reason, Madam Speaker, is that it seems to me that, no matter what question is asked and no matter what group of people is put together to ask the question, there will always be those who, like Mr Stevenson, will point the finger and say that the referendum is a fraud. If we have a situation where people are saying that a referendum is a fraud, citizens-initiated referendums cannot work. In that case there is simply one question: "Are you going to accept the law of the Territory or are you going to override the law of the Territory?". Whilst I have always supported voters' veto, Mr Stevenson has been very successful in convincing me of a major difficulty with citizens-initiated referendums, and that is why I am getting cold feet. I had begun to get cold feet because of the number of times he had said that recently, and my feet are feeling like they are on iceblocks now as far as that issue goes.

Madam Speaker, it is ironic that Mr Stevenson should talk about a "fraud of the year" in terms of that issue. He sits in this Assembly having been elected to abolish self-government. I probably do not need to say more, but I am going to. It is ironic that Mr Stevenson says that and then brings us one of his surveys in which the question he asked was, "Should we have two-year terms, four-year terms, six-year terms?". I think they were the questions.

Mr Stevenson: Two-, three- and four-year terms.

MR MOORE: "Should we have two-, three- or four-year terms?". Why did he not ask about six years or eight years? Why did he not ask about one year? That poll question was clearly a fraud. In his own terms, that question was clearly a fraud. As Mr Kaine interjected before and as I think he mentioned in his speech, we could go through every question that Dennis Stevenson has ever asked and, using his own criteria, say that the polls were a fraud. He was kind enough to send me a copy of the newsletter he put out. I also received it at my home. It contains a series of questions that he has asked in his polling. Clearly, under his own criteria, his methods are fraudulent. Having recognised that, I would hope that he would now think about the issues and make his own decisions. If the people like those decisions, you will be re-elected. If they do not, you will be removed. That is how our democracy works, and that is the most effective way.

Madam Speaker, when we get to the detail stage I will deal in more depth with some of those issues and why it is that I have chosen to vote one way or the other. With the removal of the above-the-line ticket vote option, I think we have a very effective Bill with just a few minor differences of opinion. Overall, this is an effective Bill and I support it in principle.

Mr Stevenson: Madam Speaker, I seek leave to speak again.

Leave not granted.

MS FOLLETT (Chief Minister and Treasurer) (4.27), in reply: Madam Speaker, I thank members for their comments on the Bill. In the course of the detail stage debate there will be many more opportunities for members to make points. At the outset I want again to place on record my thanks to Mr Phil Green for the preparation of this Bill. It is, I believe, an outstanding piece of work and a massive piece of work. The fact that he has been able to achieve it with relatively few resources and in a relatively quick time, I think, is a remarkable achievement, one that he should be very proud of and one that I am certainly very pleased with.

Madam Speaker, in his remarks Mr Humphries asserted that it had taken two years to transform the referendum result into legislation. As is often the case, Mr Humphries was wrong, I am afraid. Mr Humphries apparently has forgotten or has chosen to ignore the fact that this is the second stage of a process of implementation of the referendum on the new electoral system for the ACT. The first phase involved the creation of the Electoral Commission and the drawing up of their work, which was largely to arrive at the boundaries for the electorates in the ACT. That work was successfully completed. In order for the implementation of the referendum result to be a continuous process we had deliberately chosen a two-phase process. So, Madam Speaker, I consider Mr Humphries's comments to be churlish, as usual, and quite ill-founded. I would like, Madam Speaker, to thank those members of the Assembly who took part in the consultation process that occurred in relation to this Bill.

Debate interrupted.

ADJOURNMENT

MADAM SPEAKER: Order! It being 4.30 pm, I propose the question:

That the Assembly do now adjourn.

Ms Follett: I require the question to be put forthwith without debate.

Question resolved in the negative.

ELECTORAL (AMENDMENT) BILL 1993

[COGNATE BILL:

ELECTORAL (AMENDMENT) (CONSEQUENTIAL PROVISIONS) BILL 1993]

Debate resumed.

MS FOLLETT: I believe that the consultation process was extremely helpful in clarifying the issues that are likely to be debated in the detail stage of this Bill. I would also like to thank Mr Green again for his part in that consultation process and also for his briefing of other members. I think that was a necessary process and it was one which he did extremely well.

Madam Speaker, I foreshadow to members the fact that the Government does intend to move a number of amendments to the Bill and I will advise the general areas of those amendments so that people are aware of what they are. First of all, we will be removing the provisions related to party ticket voting, as I had advised previously, and we will also be moving an amendment to reduce the term of the Assembly from the four years proposed in the Bill to three years. It is a fact that all States except one do have a four-year term and it seems reasonable to me that the Territory move the same way; but I have no strong feelings about it and I am quite prepared to stick with the three years, as I have advised previously. We will be moving an amendment also to lower the threshold for the receipt of public funding, and also the threshold for the return of candidates' deposits from 4 per cent to 2 per cent of formal first preference votes.

We will also be moving an amendment - this arose as a result of some questions Mr Humphries asked me in previous question times - which will aim to relax the formality criteria somewhat so that ballot-papers with a minimum of a single first preference will be counted as a formal vote, although of course the instructions to vote as per the requirements are unchanged. We will be moving for several changes that have been recommended by the Standing Committee on Scrutiny of Bills and Subordinate Legislation. There are also several minor changes to correct some drafting errors and to clarify the meaning of some provisions. As I said at the time that the Bill was introduced, the drafting of the Bill was hastened somewhat in order for it to be completed by

December last year. As a result of examination of the Bill since that time, it has proved necessary to correct a couple of drafting errors and also to clarify the meaning of some provisions in the Bill, but those amendments do not alter the intention of any of the provisions in the Bill.

Madam Speaker, I think it is fair to say that the issues that are likely to be raised in the debate on the Bill are many. They include, of course, the banning of how-to-vote cards. They include the public funding scheme that is proposed in the Bill and on which there clearly are differing views. Another issue that will arise is the allowing of non-party candidates to be grouped on ballot-papers and also the intention by the Liberals, I believe, to make provision for itinerant electors to vote in ACT elections. There are also proposed amendments to prevent the registration of parties with names that are frivolous and so on, and, as we have heard, there will be amendments proposed about the possibility of voting fraud in the ACT. There is also a proposal now from Mr Stevenson requiring voters to produce identification and also requiring voters to vote only at their nearest polling place. I believe that it has been extremely helpful for a number of the proposed amendments to have been circulated early on. It is certainly a help when there is a very complex piece of legislation for proposed amendments to be ordered in some fashion and for members to know the nature of them.

There is one proposed amendment which I would like to draw attention to, one that arose last Friday from Mr Humphries. It is an amendment that has the effect of altering the transfer value or altering the means by which the transfer values are applied to surplus ballot-papers counted to successful candidates. Madam Speaker, I would like to point out that Mr Humphries's proposed amendment is completely contrary to the Hare-Clark system. Not only is it contrary to the Tasmanian Hare-Clark system; it is also completely contrary to the terms contained in the Hare-Clark referendum options description sheet. Mr Humphries, I believe, has made a significant departure from what the voters of the ACT requested when they were voting on the new electoral system for the ACT. The Government will oppose this amendment. As I say, the proposed change is a significant variation on the Tasmanian Hare-Clark system and it is completely inconsistent with the referendum options description sheet.

I am very surprised that Mr Humphries would put forward such a proposal when he has been so pious about what he sees as departures from the Hare-Clark system. He has come forward with a very significant departure, the effect of which would be to increase the effective value of some voters' ballot-papers, and that in turn could change the whole election outcome.

Mr Humphries: It improves the transferability of people's votes.

MS FOLLETT: Shame on you, Mr Humphries! You have been shown to be extremely hypocritical on this matter.

Mr Humphries: It helps if you understand the system, Chief Minister.

MS FOLLETT: Madam Speaker, I know that Mr Humphries feels stung by my comments, but the fact is that he has been caught out perpetrating a fraudulent amendment, when he has said all along that he would be honouring the terms of the referendum options description sheet. He has not.

Madam Speaker, I again thank members for their comments on the Bill. I realise that there is a very large number of proposed amendments. I would like to point out to Mr Kaine that some of the colour coded sheets which have been distributed refer to consequential amendments which may be required should any of Mr Humphries's amendments or other amendments succeed. The Government has proposed consequential and necessary further amendments, and that is why they are colour coded. Madam Speaker, I look forward to the detail stage debate on this Bill. I realise that it presents an enormous challenge for the Secretariat in ordering all of the proposed amendments, and it will present something of a challenge, I think, to all members to follow the process of debate. I thank members for their comments so far and I commend the Bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

Debate (on motion by **Mr Berry**) adjourned.

ADJOURNMENT
Daylight Saving

MS FOLLETT (Chief Minister and Treasurer) (4.38): Madam Speaker, I move:

That the Assembly do now adjourn.

I realise that I am closing the debate. Does anybody else wish to speak? No. I rise in the adjournment debate to mention very briefly the cause of daylight saving in the ACT. Madam Speaker, members might remember that some years ago the ACT was forced to curtail its daylight saving period by virtue of the fact that New South Wales had taken that action. It would be quite ludicrous, in my view, for the ACT and New South Wales to have different daylight saving periods.

Shortly before the Premiers Conference I received a letter from the Victorian Premier inviting my comment on the proposal that they were putting forward to extend the period of daylight saving. Needless to say, I would have been delighted to support such an extension because it would have put the Territory back to where we were before.

Unfortunately, in recent times, it does appear that Victoria, Tasmania and South Australia have agreed to end daylight saving at the end of March. I believe that South Australia is uncertain as to when they are going to start. I believe that the situation which has arisen whereby Victoria and New South Wales are out of sync on daylight saving is ludicrous. I would also like to draw attention to the fact that New South Wales's opposition to the extension of daylight saving was a position taken by them without any consultation with the ACT. I believe that that is a great shame.

Madam Speaker, I consider that it is essential for the ACT and New South Wales to be on the same daylight saving schedule. I also believe that it would make eminent sense, if not be absolutely essential, for the whole of the eastern seaboard to be on the same daylight saving regime. This is not just for the community's sake, or for the sake of people crossing borders; it is for the sake of the whole of the business sector, for example, who are in constant communication across borders. This is a ridiculous situation.

I recently received a letter from the Hon. Lou Lieberman, the Federal MHR for Indi, pointing out this situation. He has taken the matter up with the Prime Minister. I wish to advise the Assembly that I am happy to join with Mr Lieberman in looking for a consistent daylight saving schedule, at least for this side of Australia. I think the current situation is ridiculous. If State leaders cannot agree on a relatively straightforward matter like this, then I believe that national reforms of a more significant nature are going to be extremely difficult indeed, if not impossible.

Madam Speaker, I am sure that all members would share my views on this. In my opinion, an extended daylight saving period is very much in the interests of the Territory. We have a very harsh winter and I think the majority of our community would wish to make the very most of what sunny days we do have. I also think it is good for business. It would certainly be good for our Canberra Festival if we were able to go back to the situation that we had before.

Question resolved in the affirmative.

Assembly adjourned at 4.43 pm until Tuesday, 19 April 1994, at 2.30 pm

APPENDIX l:
(Incorporated in Hansard on 12 April 1994 a-c page 542).

MINUTE PAPER

Subject: MINISTERIAL STATEMENT ACTTAB / VITAB AGREEMENT .
MINISTER FOR SPORT

Director

PURPOSE

Your Office asked for a Ministerial Statement on the ACTTAB / VITAB Agreement.

BACKGROUND

On 8 November 1993 you announced the agreement.between AC iiAB and the Vanuatu and Pacific islands T.A.B. (VITAS). VITAE is an Australian and Asian owned company
based in Port Vila; Vanuatu. The agreement provides for ACTTAB to provide totalizator computer and betting facilities to VITAB.

ISSUES

Following the. successful launch of the agreement, it is appropriate that you make a Ministerial Statement to the. Legislative.Assembly outlining the benefits of the agreement financial operations of ACTTAB under the revised administrative structure.

RECOMMENDATION

It is recommended that you:

(a).approve the Ministerial Statement on the ACTTAB /VITAB Agreement and:
J Meyer
General
Culture, Heritage and Sport
November 1993

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MINISTERIAL STATEMENT

ON

ACTTAB / VITAB AGREEMENT

To be delivered by:

Mr Wayne Berry MLA

Deputy Chief Minister and Minister for Sport

November 1993

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ON 8 NOVEMBER 1993 ANNOUNCED THAT THE A.C.T. TOTALIZATOR ADMINISTRATION BOARD ACTTAB HAD SIGNED AN AGREEMENT WITH AN AUSTRALIAN AND ASIAN OWNED COMPANY, VITAB LTD, TO PROVIDE COMPUTER BETTING FACILITIES FOR VITABS TOTALIZATOR OPERATION IN VANUATU.

EARLIER THIS YEAR VITAB LTD, WHOSE-SHAREHOLDERS INCLUDE FORMER PRIME MINISTER THE HON R J HAWKS AC, WAS GRAN-TED THE SECOND BETTING LICENCE FOR THE -REPUBLIC OF VANUATU. VITAB WILL BASE ITS. OPERATION IN PORT VILA, VANUATU.

ACTTAB. COMPETED AGAINST SEVERAL OTHER INTERSTATE TABS TO PROVIDE THE NECESSARY COMPUTER FACILITIES AND OPERATIONAL SUPPORT TO VITAB AND WAS CHOSEN AS THE PREFERRED PROVIDER, DUE TO. THE HIGH QUALITY OF THE -TEAM DEVELOPED BY ACTTAB, THE MARKET LEADERSHIP ROLE PLAYED BY.ACTTAB IN DEVELOPING COMPUTERISED BETTING TECHNOLOGY AND ITS PROVEN TRACK RECORD OF SUPPLYING AND SUPPORTING REMOTE T.A.B. FACILITIES TO THE NORTHERN. TERRITORY.

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2 OF 3

INDEED, ACTTAB MUST BE CONGRATULATED, MADAM SPEAKER FOR -THE SIGNIFICANT EXPERTISE IT HAS. DEVELOPED IN THE EFFICIENT- DELIVERY OF TOTALIZATOR-BETTING FACILITIES TO REMOTE LOCATIONS. THIS EXPERTISE AND THE QUALITY OF THE ONGOING SUPPORT PROVIDED BY ACTTAB WERE SIGNIFICANT FACTORS IN ACTTAB SUCCESSFUL BID.

ACTTAB WILL INITIALLY PROVIDE BET-ENTRY FOR FACE-TO-FACE - BETTING AS WELL: AS TELEPHONE BETTING; HOWEVER, IT IS . ENVISAGED THAT P.C.-BASED BETTING SYSTEMS WILL. BE . AVAILABLE-NEXT YEAR. AS ALL BETS WILL BE TRANSMITTED VIA. SATELLITE BETWEEN VANUATU AND ACTTABS COMPUTER FACILITIES, THE VENTURE WILL CERTAINLY PROVIDE NEW TECHNICALCHALLENGES FOR ACTTAB. ACTTAB HAVE MET THOSE CHALLENGES AND HAVE DEVELOPED SOLUTIONS DEMONSTRATING THAT CANBERRA IS A STRONG AND COMPETITIVE .PLAYER IN THE NATIONAL TECHNOLOGY STAKES.

MOVING TO THE AGREEMENT ITSELF, ACTTAB HAS AGREED TO PROVIDE COMPUTING FACILITIES, EXPERTISE AND TECHNOLOGY TO ENABLE THE OPERATION OF T.A.B. FACILITIES IN VANUATU. VITAB LTD IS PROVIDING .ALL THE CAPITAL TO FINANCE THE PROPOSAL AND IS BEARING ALL BUSINESS RISKS ASSOCIATED WITH THE VENTURE. BOTH THE ACT GOVERNMENT SOLICITORS OFFICE AND ACT TREASURY SIGNED AND ENDORSED THE AGREEMENT.

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HAS CLEARLY PROSPERED .UNDER THE .REVISED ADMINISTRATIVE STRUCTURE- INTRODUCED IN JULY THIS YEAR..
BETTING. TURNOVER IS UP SOME SIX PERCENT ON LAST YEARS
LEVELS AND THE AUTHORITY RECENTLY ACHIEVED. TWO -
MILLION. DOLLAR DAYS" IN ADDITION TO THE EXTREMELY
SUCCESSFUL MELBOURNE CUP DAY WHERE TURNOVER
APPROACHED THE-.S 1.9 MILLION MARK. THIS SURELY --
THE IMPORTANCE- OF-ACTTAB AS A VALUABLE
ASSET AND IS A FURTHER BLOW TO THOSE MEMBERS
OF THIS ASSEMBLY WHO ARGUED LONG AND HARD AGAINST THE
GOVERNMENTS RESTRUCTURING PROPOSAL.
MADAM I CONCLUDE BY SAYING THAT THIS AGREEMENT IS A COUP FOR ACTTAB AND THE. NOT ONLY WILL IT SIGNIFICANTLY ENHANCE THE FINANCIAL RETURNS
TO ACTTAB AND THE GOVERNMENT, IT WILL CONTRIBUTE TO THE AND
INTERNATIONAL- REPUTATION OF THE TERRITORY AS A LEADER IN THE DEVELOPMENT AND APPLICATION OF HIGH TECHNOLOGY.

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APPENDIX 2: (Incorporated in Hansard on 14 April 1994 at page 815).
1994

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

LOTTERIES (AMENDMENT) BILL 1994

PRESENTATION SPEECH

Circulated by the authority of the

Chief Minister and Treasurer

Rosemary Follett, MLA

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MADAM SPEAKER, THE LOTTERIES ACT 1964 REGULATES THE CONDUCT OF A WIDE RANGE OF LOTTERY TYPE ACTIVITIES SUCH AS RAFFLES, SILVER CIRCLES, HOUSIE AND TRADE PROMOTIONS. THE SALE OF INSTANT SCRATCH LOTTERY TICKETS IN THE A.C.T. IS ALSO APPROVED UNDER THE ACT.

INSTANT SCRATCH LOTTERY TICKETS ARE SOLD IN THE A.C.T. THROUGH AGREEMENTS WITH NSW LOTTERIES AND TATTERSALS SWEEP CONSULTATION. THESE ORGANISATIONS HAVE REQUESTED THE ASSISTANCE OF THE A.C.T. GOVERNMENT AND OTHER GOVERNMENTS IN INTRODUCING LEGISLATION TO CONFIRM THE COMMON UNDERSTANDING OF THE RULES OF INSTANT LOTTERY GAMES. THIS FOLLOWS THE DECISION EARLY LAST YEAR OF THE NSW COURT OF APPEAL, IN NSW LOTTERIES V BURGIN, WHICH CONFIRMED DEFICIENCIES IN THE WORDING USED ON INSTANT SCRATCH LOTTERY TICKETS.

THERE IS A FURTHER MATTER IN THE A.C.T. SUPREME COURT INVOLVING A DISPUTE ON THE WORDING OF A BURGIN STYLE SCRATCH LOTTERY TICKET. IN THE CIRCUMSTANCES, MADAM SPEAKER, THE PLAINTIFF WOULD APPEAR TO BE TAKING ADVANTAGE OF FORTUITOUS CIRCUMSTANCES BY MIMICKING THE NSW BURGIN CASE. ALL STATES AND THE NORTHERN TERRITORY HAVE INTRODUCED OR PROPOSE TO INTRODUCE RETROSPECTIVE LEGISLATION TO PREVENT OTHER CLAIMANTS, SUCH AS THE MATTER PRESENTLY IN THE ACT SUPREME COURT, FROM OBTAINING A SIMILAR BENEFIT TO THAT IN BURGINS CASE. THIS IS NECESSARY TO AVOID THE POSSIBILITY OF CLAIMS POTENTIALLY INVOLVING BILLIONS OF DOLLARS.

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AS LOSSES WERE NOT IN CONTEMPLATION WHEN AGREEMENTS WITH NSW AND VICTORIA WERE NEGOTIATED, THEY DO NOT CONTAIN SPECIFIC MENTION OF HOW LOSSES WOULD BE HANDLED, BEYOND REDUCING THE TERRITORYS SHARE OF NET REVENUE TO NIL. THE A.C.T.S ANNUAL REVENUE FROM INSTANT LOTTERIES OF APPROXIMATELY $1.72 MILLION IS THEREFORE AT RISK.

IN ADDITION, MADAM SPEAKER, THE OPPORTUNITY HAS BEEN TAKEN TO REMOVE SEXIST LANGUAGE AND UPDATE THE DRAFTING STYLE OF THE LOTTERIES ACT 1964.

MADAM SPEAKER, THIS BILL PROPOSES RETROSPECTIVE AMENDMENTS TO THE ACT, IN LINE WITH CHANGES MADE OR PROPOSED IN OTHER JURISDICTIONS, TO CONFIRM THAT TO WIN AN INSTANT SCRATCH LOTTERY GAME IT IS NECESSARY TO FIND THREE OF THE SAME SYMBOL.

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THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

CONSTRUCTION INDUSTRY TRAINING FUND BILL 1994

PRESENTATION SPEECH

Circulated by authority of the Minister for Education and Training, Mr Bill Wood MLA

885

PRESENTATION SPEECH

CONSTRUCTION INDUSTRY TRAINING FUND BILL 1994

I MOVE THAT THE BILL BE NOW AGREED TO IN-PRINCIPLE.

MADAM SPEAKER, ALL STATES AND TERRITORIES RECOGNISE THAT, TO ACHIEVE MICRO-ECONOMIC REFORM, IT IS ESSENTIAL FOR THE QUALITY AND LEVEL OF VOCATIONAL EDUCATION AND TRAINING TO BE IMPROVED. IT WAS IN THIS CONTEXT THAT AN AGREEMENT WAS REACHED IN 1992 BETWEEN THE COMMONWEALTH, STATES AND TERRITORIES TO ESTABLISH THE AUSTRALIAN NATIONAL TRAINING AUTHORITY (ANTA). THE ROLE OF ANTA IS TO CO-ORDINATE NATIONAL EFFORT IN MANAGING AND FUNDING ALL PUBLICLY FUNDED VOCATIONAL EDUCATION AND TRAINING TO ENSURE THAT TRAINING IS DELIVERED EFFECTIVELY AND EFFICIENTLY.

A FEATURE OF THE NATIONAL AGREEMENT WHICH GAVE RISE TO ANTA IS THE ESTABLISHMENT OF A TRAINING AGENCY IN EACH JURISDICTION. I EXPECT TO INTRODUCE LEGISLATION LATER THIS YEAR TO ESTABLISH AN ACT TRAINING AGENCY:

THE NATIONAL BUILDING AND CONSTRUCTION INDUSTRY TRAINING COUNCIL IS RESPONSIBLE FOR ASSESSING THE PARTICULAR TRAINING AND DEVELOPMENT NEEDS OF THE CONSTRUCTION INDUSTRY. THIS INCLUDES NOT ONLY NEEDS OF TRADES AND SUB-TRADES, BUT ALSO TECHNICAL, PROFESSIONAL AND MANAGEMENT NEEDS. THE A.C.T BUILDING AND CONSTRUCTION INDUSTRY TRAINING COUNCIL ASSESSES TRAINING AND DEVELOPMENT NEEDS AT THE LOCAL LEVEL CONSISTENT WITH NATIONAL APPROACHES.

THE COUNCIL HAS BEEN ANALYSING LABOUR NEEDS FOR THE ACT CONSTRUCTION INDUSTRY. THIS ANALYSIS WILL FORM THE BASIS OF TRAINING PLANS FROM WHICH WILL BE DERIVED THE FUNDING FRAME WORKS REFERRED TO IN THE BILL. .

THESE FUNDING FRAMEWORKS WILL MEET THE TRAINING NEEDS OF THE CONSTRUCTION INDUSTRY IN THE ACT.

IT IS VERY IMPORTANT THAT APPROPRIATE FUNDING IS AVAILABLE TO IMPLEMENT PRIORITIES IDENTIFIED IN THESE ANNUAL FUNDING FRAMEWORKS. IT IS CLEAR THAT PUBLIC FUNDING ALONE WILL NOT MEET THE CONSTRUCTION INDUSTRYS NEEDS.

PRIVATE SECTOR SPENDING ON TRAINING IN THE CONSTRUCTION INDUSTRY ARISES PRIMARILY THROUGH THE COMMONWEALTH TRAINING GUARANTEE LEVY WHICH OBLIGES ALL EMPLOYERS WITH A PAYROLL IN EXCESS OF $226;000 A YEAR TO SPEND AN AMOUNT EQUIVALENT TO 1.5% OF THEIR PAYROLL VALUE ON TRAINING.

IT IS IMPORTANT THAT EVERY TRAINING DOLLAR CONTRIBUTES TO A CO-ORDINATED SYSTEM WIDE APPROACH THAT PRODUCES THE APPROPRIATE TRAINING WHEN AND WHERE IT IS REQUIRED. THE APPROACH WHERE SEPARATE TRAINING INITIATIVES ARE MOUNTED BY INDIVIDUAL EMPLOYERS IS NOT LIKELY TO BE AS EFFECTIVE AS ONE WHERE RESOURCES FOR TRAINING ARE POOLED. ADDITIONALLY, THE PAYROLL THRESHOLD MEANS THAT MANY EMPLOYERS ARE NOT OBLIGED TO CONTRIBUTE AT ALL TO TRAINING. THIS IS OCCURRING AT A TIME WHEN SIGNIFICANT AMOUNTS OF MONEY ARE REQUIRED TO FUND IMPORTANT INDUSTRY TRAINING COURSES, PROGRAMS AND PROJECTS.

ADDITIONAL FUNDING FOR CONSTRUCTION TRAINING IN THE ACT IS PROVIDED BY AN ALLOCATION OF 10% OF MONEY COLLECTED AS A LEVY ON EMPLOYERS UNDER THE ACT LONG SERVICE LEAVE (BUILDING AND CONSTRUCTION) INDUSTRY ACT. THIS MONEY IS HELD IN A FUND AND IS SPENT ON CONSTRUCTION INDUSTRY TRAINING PROJECTS APPROVED BY THE- MINISTER FOR INDUSTRIAL RELATIONS.

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MADAM SPEAKER, IT HAS BEEN RECOGNISED BY THE GOVERNMENT THAT A MORE APPROPRIATE WAY TO PROVIDE FOR CONSTRUCTION INDUSTRY TRAINING IS TO INTRODUCE THROUGH LEGISLATION A LEVY SCHEME BASED ON THE COST OF CONSTRUCTION WORK IN THE ACT. THIS SCHEME WILL POOL FUNDS COY BEING SPENT BY INDIVIDUAL EMPLOYERS. MONEY COLLECTED WOULD SUPPLEMENT THAT PROVIDED. BY GOVERNMENT APPROPRIATIONS. THE WHOLE POOL OF RESOURCES WILL FUND PROGRAMS TO IMPROVE TRAINING PROGRAMS FOR WORKERS IN THE ACT CONSTRUCTION INDUSTRY.

OVERALL, FUNDS SPENT ON INDUSTRY TRAINING FOLLOWING IMPOSITION OF THE LEVY CAN BE FOCUSED IN AREAS WHERE THERE IS AN AGREED NEED. FOR THIS REASON THE PROPOSED LEVY HAS THE SUPPORT OF THE TRIPARTITE BUILDING AND CONSTRUCTION INDUSTRY TRAINING COUNCIL.

MADAM SPEAKER, THE BILL PROVIDES FOR THE IMPOSITION OF A LEVY ON ALL BUILDING AND CONSTRUCTION WORK VALUED OVER $5000 COMMENCING IN THE ACT AFTER THE LEGISLATION IS ENACTED. THE ASSESSED AMOUNT WILL BE PAYABLE BY THE PROJECT OWNER WHO IS THE PERSON RESPONSIBLE FOR TAKING OUT A BUILDING PERMIT OR ENTERING INTO A CONTRACT WITH A GOVERNMENT AUTHORITY. THE BILL PROVIDES FOR THE LEVY TO BE WITHIN A RANGE OF 0.2% TO 0.5% OF THE VALUE OF CONSTRUCTION WORK. THE LEVEL OF LEVY WILL BE SET BY THE APPROPRIATE MINISTER AFTER CONSULTATION WITH A BOARD WHICH IS TO BE ESTABLISHED UNDER TIE BILL.

IT IS EXPECTED THAT THE LEVY WILL BE SET INITIALLY AT 0.2010. THIS SHOULD GENERATE OVER $1 MILLION ANNUALLY FOR INDUSTRY TRAINING. I SHOULD ADD, MADAM SPEAKER, THAT THE LEVY PROPOSED IS NOT AN ADDITIONAL LEVY TO THE ONE REQUIRED UNDER COMMONWEALTH TRAINING GUARANTEE ARRANGEMENTS. COMMONWEALTH LEGISLATION ALLOWS FOR AN EXEMPTION FROM THOSE ARRANGEMENTS FOR AN INDUSTRY WHERE A SATISFACTORY ALTERNATIVE IS PROVIDED UNDER STATE OR TERRITORY LEGISLATION.

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THE BILL WILL THEREFORE PROVIDE A SCHEME ENABLING WORKERS ENGAGED IN BUILDING AND CONSTRUCTION WORK TO QUALIFY FOR EXEMPTION FROM THE COMMONWEALTH TRAINING GUARANTEE LEVY. THIS WILL ENSURE THAT ACT EMPLOYERS ARE NOT DISADVANTAGED WHEN COMPARED TO THEIR COUNTERPARTS INTERSTATE. FURTHERMORE, A COMPLEMENTARY BILL WILL REDUCE EMPLOYER OBLIGATIONS UNDER THE LONG SERVICE LEAVE (BUILDING AND \ CONSTRUCTION INDUSTRY) ACT.

THE TRIPARTITE CONSTRUCTION INDUSTRY TRAINING LEVY BOARD WHICH WILL BE SET UP UNDER THE BILL WILL HAVE AN INDEPENDENT CHAIRPERSON, WITH EMPLOYEE, EMPLOYER AND GOVERNMENT REPRESENTATIVES APPOINTED BY THE APPROPRIATE MINISTER. THE BOARD WILL BE RESPONSIBLE FOR APPROVAL OF ALL PROPOSALS FOR FUNDING FROM LEVY FUNDS. THE BOARD WILL APPROVE EXPENDITURE OF LEVY MONEY SUBJECT TO THAT EXPENDITURE BEING CONSISTENT WITH THE PRIORITIES SET BY THE ANNUAL FUNDING FRAMEWORK. THE BOARD WILL ALSO BE EMPOWERED TO ENTER INTO CONTRACTS TO SUPPORT ITS FUNCTIONS SUBJECT TO THE PRIOR APPROVAL OF THE MINISTER -

ALL LEVY AMOUNTS RECEIVED WILL BE PAID INTO A SPECIAL ACCOUNT MAINTAINED BY THE BOARD. IN THE FIRST INSTANCE THIS WILL BE MY DEPARTMENT. PAYMENTS WILL BE MADE FROM THE ACCOUNT ONLY ON THE RECOMMENDATION OF THE BOARD. NORMAL GOVERNMENTAL FINANCIAL CONTROL AND AUDITING STANDARDS WILL BE APPLIED TO THE OPERATION OF THE ACCOUNT. THE ACT WILL ALSO PROVIDE FOR. MONEY- NOT REQUIRED FOR IMMEDIATE USE TO BE INVESTED SO THAT TRAINING FUNDS CAN BE MAXIMISED. THIS WILL BE THE RESPONSIBILITY OF THE TREASURY.

MADAM SPEAKER, THE IMPOSITION OF THE LEVY AS OUTLINED APPLIES TO ALL EMPLOYERS IN THE SAME WAY.

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HOWEVER,- THE GOVERNMENT IS AWARE THAT SOME EMPLOYERS ALREADY PROVIDE TRAINING OF A TYPE ESSENTIAL IN THE CONSTRUCTION INDUSTRY. THE BILL THEREFORE PROVIDES FOR A REBATE TO BE MADE TO EMPLOYERS WHO CONDUCT APPROVED COURSES OR PROGRAMS. APPLICATIONS FOR REBATE WILL BE EVALUATED BY THE BOARD AGAINST CRITERIA TO BE ESTABLISHED BY THAT BODY AND WITHIN LIMITS APPROVED IN THE ANNUAL FUNDING FRAMEWORK. OVERALL, WE AIM TO ENSURE ADEQUATE COMPENSATION FOR EMPLOYERS WHO PROVIDE RECOGNISED TRAINING TO THEIR EMPLOYEES.

THE BILL WILL PROVIDE ARRANGEMENTS FOR A CO-ORDINATED . APPROACH TO FUNDING OF TRAINING IN THE CONSTRUCTION INDUSTRY IN THE ACT. ALTHOUGH FUNDS WILL BE MANAGED. BY A GO AGENCY THE OVERALL EFFECT OF THE BILL WILL BE TO ENSURE THAT THE BUILDING AND CONSTRUCTION INDUSTRY MAINTAINS CONTROL OF EXPENDITURE OF THE FUNDS TO ENSURE THE INDUSTRYS TRAINING NEEDS, WITHIN THE GOVERNMENTS BROADER TRAINING OBJECTIVES, ARE MET. CERTAINLY THE POOLING OF TRAINING FUNDS AS PROPOSED SHOULD RESULT IN A BETTER CO-ORDINATED AND MORE COMPREHENSIVE EFFORT THAN WOULD OTHERWISE BE POSSIBLE..

I COMMEND THE BILL TO THE ASSEMBLY AND PRESENT THE EXPLANATORY MEMORANDUM FOR THE BILL.

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THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LONG SERVICE LEAVE (BUILDING & CONSTRUCTION INDUSTRY) (AMENDMENT) BILL 1994

PRESENTATION SPEECH

Circulated by Authority of the Minister for Education and Training

Bill Wood MLA .

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PRESENTATION SPEECH

LONG SERVICE LEAVE (BUILDING AND CONSTRUCTION INDUSTRY) (AMENDMENT) BILL 1994

I MOVE THAT THE BILL BE NOW AGREED TO IN-PRINCIPLE.

MADAM SPEAKER, THE LONG SERVICE LEAVE (BUILDING AND CONSTRUCTION INDUSTRY) ACT 1981 ESTABLISHED A SCHEME UNDER WHICH A LEVY IS RAISED ON THE PAYROLL OF EMPLOYERS IN THE CONSTRUCTION INDUSTRY TO FUND LONG SERVICE LEAVE PAYMENTS TO EMPLOYEES IN THAT INDUSTRY.

AN AMENDMENT TO THAT ACT IN 1990 PROVIDED THAT 10% OF LEVY COLLECTIONS WERE TO BE ALLOCATED FOR TRAINING PROJECTS IN THE CONSTRUCTION INDUSTRY APPROVED BY THE APPROPRIATE MINISTER .

IT IS NOW INTENDED TO FUND CONSTRUCTION INDUSTRY TRAINING BY A LEVY UNDER THE CONSTRUCTION INDUSTRY TRAINING FUND BILL I INTRODUCED EARLIER ACCORDINGLY THE GOVERNMENT PROPOSES TO REMOVE FROM THE LONG SERVICE LEAVE (BUILDING AND CONSTRUCTION INDUSTRY) ACT ANY REFERENCE TO A TRAINING LEVY.

THE BILL WILL BRING INTO EFFECT THAT CHANGE.

THE DATE OF EFFECT OF THE AMENDMENT WILL COINCIDE WITH THE DATE OF COMMENCEMENT OF THE LEVY UNDER THE CONSTRUCTION INDUSTRY TRAINING FUND BILL; EXPECTED TO BE 1 JULY 1994. .

I COMMEND THE BILL TO THE ASSEMBLY AND PRESENT THE EXPLANATORY MEMORANDUM FOR THE BILL. -

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1994

LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

BUILDINGS (DESIGN AND SITING) (AMENDMENT) BILL 1994

PRESENTATION SPEECH

Circulated by Authority of the Minister for the Environment, Land and Planning

Bill Wood MLA

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PRESENTATION SPEECH
BUILDINGS (DESIGN AND SITING) (AMENDMENT) BILL 1994
MADAM SPEAKER, THE BUILDINGS (DESIGN AND SITING ACT GIVES THE ACT PLANNING AUTHORITY POWER TO GRANT OR REFUSE APPROVAL TO PROPOSALS FOR ANY DEVELOPMENT INVOLVING ANY ASPECT OF EXTERNAL DESIGN AND SITING.

IN ITS PRESENT FORM THE DESIGN AND SITING ACT APPLIES ONLY WHERE BUILDINGS OR WORKS HAVE NOT ALREADY BEEN COMMENCED OR COMPLETED. APPROVAL CANNOT BE GIVEN TO BUILDINGS AND WORKS THAT ALREADY EXIST.

THE AMENDMENT BILL EXTENDS THE POWER OF THE AUTHORITY TO PERMIT IT TO APPROVE EXISTING BUILDINGS AND WORKS. THERE ARE TWO GENERAL CONDITIONS GOVERNING SUCH AN APPROVAL. FIRST, THE APPLICATION MUST BE THE SUBJECT OF A NOTICE BY THE

BUILDING CONTROLLER WHICH REQUIRES THE APPLICANT TO OBTAIN APPROVAL FOR PLANS, AND TO OBTAIN A BUILDING PERMIT UNDER THE BUILDING ACT.

THE SECOND CONDITION IS THAT THE EXISTING BUILDING MUST BE IN CONFORMITY WITH THE TERRITORY PLAN AS IT APPLIES TO THE EXISTING BUILDING OR WORKS.

THE NUMBER OF EXISTING BUILDINGS AND OTHER STRUCTURES IN THE TERRITORY THAT ARE UNAPPROVED IS UNKNOWN. HOWEVER, THE REGULARITY WITH WHICH LESSEES APPROACH THE PLANNING AUTHORITY SEEKING APPROVAL FOR EXISTING BUILDINGS, AND ANECDOTAL EVIDENCE OF PRACTICES FOR DEALING WITH UNAPPROVED BUILDINGS AND STRUCTURES IN THE SALE OF ESTABLISHED HOUSES, INDICATE THAT THE NUMBERS ARE QUITE SIGNIFICANT.

AT THE PRESENT TIME A LANDHOLDER WHO WISHES TO REGULARISE HIS OR HER POSITION AND OBTAIN APPROVAL FOR AN EXISTING BUILDING, CANNOT DO SO. THE OPTIONS ARE TO EITHER DEMOLISH THE BUILDING OR CONTINUE TO CONCEAL IT FROM THE AUTHORITIES. NEITHER ALTERNATIVE IS DESIRABLE, AND THE FIRST, THAT OF DEMOLISHING THE BUILDING IS UNREALISTIC WHERE THE BUILDING HAS BEEN WELL CONSTRUCTED AND CLEARLY ADDS VALUE TO THE

PROPERTY.

IN SOME CASES AN UNAPPROVED BUILDING OR STRUCTURE MAY BE A SAFETY OR HEALTH RISK, BUT THE OWNER WILL NOT BE ENCOURAGED TO BRING IT UP TO AN ACCEPTABLE STANDARD UNLESS THERE IS A POSSIBILITY THAT IN SO DOING, IT MAY EVENTUALLY BE APPROVED. IN CASES WHERE THE OWNER IS CONCERNED ABOUT POTENTIAL HEALTH AND SAFETY RISKS OF AN UNAPPROVED BUILDING, THERE IS MORE LIKELIHOOD THAT HE OR SHE WILL SEEK ADVICE FROM THE APPROPRIATE AUTHORITY, IF THERE IS AN EXPECTATION THAT THE AUTHORITYS RESPONSE WILL BE SOMETHING OTHER THAN A DEMOLITION NOTICE.

MADAM SPEAKER, IT IS CONTRARY TO THE PRINCIPLES GOVERNING THE ORDERLY AND PROPER PLANNING OF THE TERRITORY THAT THERE SHOULD BE NUMBERS OF UNAPPROVED BUILDINGS CONCEALED FROM THE AUTHORITIES. IT IS ALSO UNFAIR THAT A LANDHOLDER SHOULD HAVE NO OPPORTUNITY TO MAKE GOOD A SITUATION THAT MAY HAVE BEEN CREATED EITHER THROUGH IGNORANCE OF THE STATUTORY REQUIREMENTS FOR BUILDING, OR THROUGH ERROR.

IT IS ALSO UNSATISFACTORY THAT WHILE THE BUILDING ACT PERMITS THE APPROVAL OF EXISTING BUILDINGS, THE DESIGN AND SITING ACT

PRESENTLY FRUSTRATES THE GRANTING OF BUILDING APPROVAL. THIS COMES ABOUT BECAUSE BUILDING APPROVAL CANNOT BE GRANTED UNLESS DESIGN AND SITING APPROVAL FOR THE DEVELOPMENT HAS PREVIOUSLY BEEN OBTAINED FROM THE PLANNING AUTHORITY.

CLEARLY THE TWO ACTS NEED TO BE COMPLEMENTARY. THE OBVIOUS CHANGE TO MAKE IS TO AMEND THE DESIGN AND SITING ACT SO THAT WHERE THE BUILDING CONTROLLER ISSUES A NOTICE REQUIRING THE LANDHOLDER TO OBTAIN THE APPROVAL OF PLANS, AND A BUILDING PERMIT FOR AN EXISTING BUILDING, THE DESIGN AND SITING ACT PERMITS DEVELOPMENT PLAN APPROVAL TO BE OBTAINED WHERE THE EXISTING BUILDING IS CONSISTENT WITH THE TERRITORY PLAN.

MADAM SPEAKER, THESE ARE THE MATTERS OF SUBSTANCE DEALT WITH BY THE AMENDMENT BILL.

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THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY
PRESENTATION SPEECH
FOR THE INTRODUCTION OF
THE CHILDRENS SERVICES (AMENDMENT) BILL 1994
AND
THE COMMUNITY ADVOCATE (AMENDMENT) BILL 1994
To be delivered by

Terry Connolly, MLA
Attorney-General

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MADAM SPEAKER, I AM PLEASED TO BE ABLE TO PRESENT THE CHILDRENS SERVICES (AMENDMENT) BILL 1994 AND THE COMMUNITY ADVOCATE (AMENDMENT) BILL 1994. THESE BILLS AMEND THE CHILDRENS SERVICES ACT 1986 AND THE COMMUNITY ADVOCATE ACT 1991 TO STRENGTHEN AND ENHANCE THE CHILD PROTECTION SYSTEM IN THE A.C.T. IN LINE WITH THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD AND REFLECT THE IMPORTANCE THE GOVERNMENT PLACES ON CHILD PROTECTION MEASURES IN THE A.C.T.

THE BILLS ALSO CLARIFY THE ROLES AND RESPONSIBILITIES OF THE DIRECTOR OF FAMILY SERVICES AND THE COMMUNITY ADVOCATE IN MATTERS AFFECTING SERVICES FOR THE PROTECTION OF CHILDREN.

THERE HAS BEEN UNCERTAINTY AMONGST PRACTITIONERS IN THE CHILD PROTECTION FIELD ABOUT WHO IS THE STATUTORY OFFICER RESPONSIBLE FOR TAKING ACTION ON CHILD PROTECTION MATTERS. THIS HAS IMPEDED THE EFFICIENT DELIVERY OF CHILD PROTECTION SERVICES.

THE UNCERTAINTY HAS ARISEN BECAUSE OF THE UNCLEAR REFERENCES IN THE CHILDRENS SERVICES ACT TO THE COMMUNITY ADVOCATE AND THE DIRECTOR OF FAMILY SERVICES AND THEIR ROLES IN THE PROVISION OF THESE SERVICES.

THE COMMUNITY ADVOCATE ACT AND THE CHILDRENS SERVICES ACT ARE CURRENTLY INTERPRETED TO GIVE THE COMMUNITY ADVOCATE A BRIEF TO MONITOR ALL ASPECTS OF CHILD PROTECTION, TO RECEIVE

AND INVESTIGATE COMPLAINTS REGARDING SERVICES TO CHILDREN, AND TO ENSURE THAT CHILDRENS RIGHTS ARE RECOGNISED AND PROTECTED. THE COMMUNITY ADVOCATE IS ALSO RESPONSIBLE FOR RECEIVING AND RECORDING NOTIFICATIONS OF CHILD ABUSE AND FOR INITIATING COURT PROCEEDINGS IN RESPECT OF CHILDREN IN NEED OF CARE.

IN PRACTICE, HOWEVER, THE DIRECTOR OF FAMILY SERVICES RECEIVES NOTIFICATIONS OF CHILD ABUSE. THE DIRECTOR INVESTIGATES THESE NOTIFICATIONS, PROVIDES ASSESSMENTS AND UNDERTAKES ONGOING CASE MANAGEMENT FOR CHILDREN TO PROVIDE APPROPRIATE STRATEGIES AND SERVICES TO ENSURE THEIR SAFETY AND PROTECTION. THE DIRECTOR OF FAMILY SERVICES IS NOT, HOWEVER, RESPONSIBLE FOR INITIATING COURT PROCEEDINGS. THE EXISTING LEGISLATION SPECIFIES CERTAIN DUTIES OF THE DIRECTOR BUT DOES NOT DEFINE ANY SPECIFIC ROLE OR RESPONSIBILITIES.

MADAM SPEAKER, THE FAILURE OF THE LEGISLATION TO CLEARLY SPECIFY ONE AUTHORITY AS BEING RESPONSIBLE FOR CHILD PROTECTION HAS BEEN OF CONCERN TO BOTH AGENCIES. THE RESPONSIBILITIES FOR RECEIPT OF NOTIFICATIONS AND INITIATING COURT PROCEEDINGS ARE INTEGRAL PARTS OF THE SYSTEM. THE FACT THAT THE COMMUNITY ADVOCATE HAS THE FINAL DECISION IN INITIATING COURT PROCEEDINGS IMPLIES THAT THE POSITION ALSO HAS RESPONSIBILITIES IN CASE OUTCOMES AND CAUSES CONFUSION

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AS TO THE EXTENT OF THIS AUTHORITY IN RESPECT OF THE MANAGEMENT AND DECISION-MAKING OF A CASE.

THE PRACTICAL CONSEQUENCE OF THIS SITUATION IS A LACK OF CLARITY REGARDING WHO IS RESPONSIBLE FOR MAKING DAY-TO-DAY CASE DECISIONS, PARTICULARLY FOR THOSE CASES SUBJECT TO COURT PROCEEDINGS. IT ALSO RAISES INCONSISTENCIES WHERE THE DIRECTOR OF FAMILY SERVICES IS RESPONSIBLE FOR A SYSTEM BUT DOES NOT HAVE CONTROL OF IMPORTANT ELEMENTS OF IT.

THE CURRENT NEED FOR THE COMMUNITY ADVOCATE TO FOCUS ON THE RECEIPT OF NOTIFICATIONS AND TAKING OF COURT ACTION DETRACTS FROM THIS OFFICES ROLE OF SYSTEM-WIDE MONITORING AND ADVOCACY AS INTENDED BY THE EXISTING LEGISLATION.

MADAM SPEAKER, THE BILLS THAT I PRESENT TODAY WILL CLEARLY ESTABLISH THE DIRECTOR OF FAMILY SERVICES AS THE STATUTORY OFFICER RESPONSIBLE FOR ALL ASPECTS OF CHILD PROTECTION SERVICE DELIVERY AND WILL FORMALISE THE COMMUNITY ADVOCATE AS THE INDEPENDENT MONITORING AUTHORITY WHICH ENSURES THAT THESE SERVICES ARE ACCOUNTABLE TO THE COMMUNITY AND AS THE AUTHORITY TO ADVOCATE FOR THE RIGHTS OF CHILDREN.

THE AMENDMENTS HAVE BEEN THE RESULT OF CLOSE CONSULTATION BETWEEN THE DIRECTOR OF FAMILY SERVICES AND THE COMMUNITY ADVOCATE. THEY HAVE ALSO INVOLVED EXTENSIVE CONSULTATION WITH OTHER AGENCIES INVOLVED IN THE CHILD PROTECTION AREA

SUCH AS THE MAGISTRATES COURT, LEGAL AID, THE AUSTRALIAN FEDERAL POLICE, AND THE DEPARTMENTS OF HEALTH AND EDUCATION. ALL AGENCIES ARE IN AGREEMENT THAT THE PASSAGE OF THESE BILLS WILL GREATLY ENHANCE THE CURRENT ARRANGEMENTS FOR THE DELIVERY OF CHILD PROTECTION SERVICES.

MADAM SPEAKER, I WOULD LIKE TO TAKE THIS OPPORTUNITY TO OUTLINE TO THE ASSEMBLY THE MAJOR CHANGES-CONTAINED IN THE BILLS.

AS I HAVE ALREADY SAID, THE AMENDMENTS ESTABLISH THE DIRECTOR OF FAMILY SERVICES AS THE STATUTORY OFFICER RESPONSIBLE FOR THE DELIVERY OF CHILD PROTECTION SERVICES. THIS HAS INVOLVED A TRANSFER OF CERTAIN FUNCTIONS AND RESPONSIBILITIES FROM THE COMMUNITY ADVOCATE TO THE DIRECTOR.

ONE OF THE MORE SIGNIFICANT OF THESE TRANSFERS CONCERNS THE RECEIPT AND RECORDING OF NOTIFICATIONS OF CHILD ABUSE. ALTHOUGH IN PRACTICE NOTIFICATIONS ARE RECEIVED BY BOTH THE DIRECTOR OF FAMILY SERVICES AND THE COMMUNITY ADVOCATE, THE AMENDMENTS WILL ESTABLISH THE DIRECTOR AS THE OFFICE THAT HAS A STATUTORY ROLE AND FUNCTION TO BE NOTIFIED OF "CHILD IN NEED OF CARE" MATTERS. WHERE A PERSON NOTIFIES THE COMMUNITY ADVOCATE OF SUSPECTED OR ACTUAL CHILD ABUSE, THAT OFFICE WILL BE REQUIRED TO NOTIFY THE DIRECTOR OF FAMILY SERVICES OF SUCH MATTERS.

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ALSO OF MAJOR SIGNIFICANCE IS THE TRANSFER OF RESPONSIBILITY TO THE DIRECTOR OF FAMILY SERVICES TO INITIATE COURT PROCEEDINGS FOR CHILDREN REQUIRING CARE AND PROTECTION. THE DIRECTOR WILL NOW BE RESPONSIBLE FOR DETERMINING WHETHER A CASE SHOULD BE TAKEN TO COURT AND FOR INITIATING REVIEWS OR CHANGES TO COURT ORDERS.

RELATED TO THIS CHANGE ARE AMENDMENTS CONCERNING THE STANDING COMMITTEE OF THE CHILDRENS SERVICES COUNCIL. THE STANDING COMMITTEE COMPRISES REPRESENTATIVES OF THE KEY AGENCIES INVOLVED IN THE PROTECTION OF CHILDREN, NAMELY THE AUSTRALIAN FEDERAL POLICE, THE FAMILY SERVICES BRANCH, THE DEPARTMENT OF HEALTH AND THE COMMUNITY ADVOCATE. THE COMMITTEES ROLE IS TO MAKE RECOMMENDATIONS CONCERNING THE APPROPRIATENESS OF COURT ACTION IN PARTICULAR CASES. UNDER THE CURRENT LEGISLATION THE COMMUNITY ADVOCATE CHAIRS THE STANDING COMMITTEE AND CONSIDERS THESE RECOMMENDATIONS. THE BILL TRANSFERS THIS FUNCTION TO THE DIRECTOR OF FAMILY SERVICES IN LINE WITH THIS OFFICES RESPONSIBILITIES FOR INITIATING COURT PROCEEDINGS.

OTHER CHANGES HAVE ALSO BEEN MADE TO THE OPERATION OF THE STANDING COMMITTEE BY ALLOWING MEMBERS TO NOMINATE REPRESENTATIVES TO ATTEND MEETINGS AND VOTE ON THEIR BEHALF. THIS WILL ALLOW THE STANDING COMMITTEE TO OPERATE MORE AT "OFFICER LEVEL" AND WILL, IN TURN, ENSURE THAT THOSE DIRECTLY INVOLVED IN A CASE HAVE MORE INPUT TO DECISIONS.

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MADAM SPEAKER, WHILE THESE CHANGES GIVE THE DIRECTOR OF FAMILY SERVICES AUTHORITY AND RESPONSIBILITY REGARDING THE TAKING OF COURT ACTION, THE LEGISLATION ALSO PROVIDES THE COMMUNITY ADVOCATE WITH A MONITORING ROLE IN RELATION TO CHILD PROTECTION MATTERS.

THE COMMUNITY ADVOCATE WILL STILL HAVE A RIGHT TO INITIATE COURT PROCEEDINGS, AND RIGHT OF APPEARANCE IN ANY PROCEEDINGS WILL BE RETAINED. INDEED, THE POSITION WILL STILL BE RESPONSIBLE FOR INITIATING REVIEWS OF COURT ORDERS ON AN ANNUAL BASIS. IN ADDITION, THE COMMUNITY ADVOCATE WILL BE NOTIFIED AS SOON AS PRACTICABLE WHEN EMERGENCY CHILD PROTECTION ACTION IS TAKEN BY THE DIRECTOR OF FAMILY SERVICES AND BEFORE THE DIRECTOR INITIATES CERTAIN COURT PROCEEDINGS.

THE COMMUNITY ADVOCATES ROLE WILL BE FURTHER EXPANDED AND STRENGTHENED BY AMENDMENTS TO THE COMMUNITY ADVOCATE ACT. THE AMENDMENTS INCLUDE TWO NEW FUNCTIONS OF MONITORING THE PROVISION OF CHILD PROTECTION SERVICES AND OF ADVOCATING FOR THE RIGHTS OF CHILDREN. TO GIVE EFFECT TO THESE FUNCTIONS, THE COMMUNITY ADVOCATE WILL BE AUTHORISED TO INVESTIGATE COMPLAINTS AND ALLEGATIONS CONCERNING THE PROVISION OF THESE SERVICES.

THE DUTIES OF THE DIRECTOR OF FAMILY SERVICES WILL BE EXPANDED TO INCLUDE THE PROMOTION OF THE CARE AND

PROTECTION OF CHILDREN. THIS AMENDMENT, TOGETHER WITH THOSE RELATING TO SPECIFIC FUNCTIONS AND RESPONSIBILITIES FOR BOTH THE DIRECTOR AND THE COMMUNITY ADVOCATE, WILL PROVIDE A CLEAR DISTINCTION BETWEEN THE ROLES OF THESE OFFICES.

MADAM SPEAKER, THESE BILLS WILL BRING THE A.C.T. MORE INTO LINE WITH OTHER AUSTRALIAN STATES AND THE NORTHERN TERRITORY (WHERE THERE IS ONLY ONE AGENCY WITH A STATUTORY ROLE) WHILE RETAINING AND STRENGTHENING THOSE ELEMENTS OF THE LEGISLATION WHICH ENABLE A COMPREHENSIVE SET OF CHECKS AND BALANCES TO FUNCTION ON BEHALF OF CHILDREN WITHIN THE CHILD PROTECTION SYSTEM.

THE CHANGES ARE ALSO OF PARTICULAR IMPORTANCE IN THE LIGHT OF THE COMMUNITY LAW REFORM COMMITTEES REPORT ON MANDATORY REPORTING OF CHILD ABUSE IN THE A.C.T. WITH THIS LEGISLATION WE ARE BUILDING A ROBUST CHILD PROTECTION SYSTEM IN ADVANCE OF MANDATORY REPORTING.

THE INTRODUCTION OF THESE BILLS WILL GREATLY IMPROVE THE CURRENT SYSTEM OF CHILD PROTECTION SERVICE DELIVERY IN THE A.C.T. BY REMOVING THE UNCERTAINTY AND DUPLICATION OF ROLES AND FUNCTIONS IN THIS AREA. THE BILLS HAVE THE SUPPORT OF THOSE WORKING IN THE CHILD PROTECTION SYSTEM AND I COMMEND THEM TO ASSEMBLY MEMBERS.

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